

## CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

### § 687. Use of State dredge and appliances in river and harbor improvements

The Secretary of the Army is authorized to accept from the State of California the use of any dredger, or appliances owned or controlled by said State, conformably to any offer thereof by the said State; and the Secretary of the Army is authorized to use any such dredger or appliances in any river or harbor improvement that may be prosecuted therein by the United States, either on the part of the United States alone or conjointly with said State: *Provided*, That nothing shall be paid to the State of California for the use of said dredger, and that nothing herein contained shall create any liability against the United States.

(Mar. 3, 1899, ch. 425, §1, 30 Stat. 1148; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

## CODIFICATION

Section was enacted as part of act Mar. 3, 1899, popularly known as the "Rivers and Harbors Appropriation Act of 1899", and not as part of act Mar. 1, 1893, ch. 183, 27 Stat. 507, which comprises this chapter.

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### § 701. Flood control generally

[LAWS APPLICABLE TO WORKS OF IMPROVEMENT RELATING TO FLOOD CONTROL.] All the provisions of existing law relating to examinations and surveys and to works of improvement of rivers and harbors shall apply, so far as applicable to examinations and surveys and to works of improvement relating to flood control. And all expenditures of funds appropriated for works and

projects relating to flood control shall be made in accordance with and subject to the law governing the disbursement and expenditure of funds appropriated for the improvement of rivers and harbors.

[EXAMINATIONS AND SURVEYS; DETAILS FROM GOVERNMENT DEPARTMENTS; REPORTS.] All examinations and surveys of projects relating to flood control shall include a comprehensive study of the watershed or watersheds, and the report thereon in addition to any other matter upon which a report is required shall give such data as it may be practicable to secure in regard to (a) the extent and character of the area to be affected by the proposed improvement; (b) the probable effect upon any navigable water or waterway; (c) the possible economical development and utilization of water power; and (d) such other uses as may be properly related to or coordinated with the project. And the heads of the several departments of the Government may, in their discretion, and shall upon the request of the Secretary of the Army, detail representatives from their respective departments to assist the Engineers of the Army in the study and examination of such watersheds, to the end that duplication of work may be avoided and the various services of the Government economically coordinated therein: *Provided*, That all reports on preliminary examinations hereafter authorized, together with the report of the Board of Engineers for Rivers and Harbors thereon and the separate report of the representative of any other department, shall be submitted to the Secretary of the Army by the Chief of Engineers, with his recommendations, and shall be transmitted by the Secretary of the Army to the House of Representatives, and are ordered to be printed when so made.

[REPORTS BY BOARD OF ENGINEERS FOR RIVERS AND HARBORS.] In the consideration of all works and projects relating to flood control which may be submitted to the Board of Engineers for Rivers and Harbors for consideration and recommendation, said board shall, in addition to any other matters upon which it may be required to report, state its opinion as to (a) what Federal interest, if any, is involved in the proposed improvement; (b) what share of the expense, if any, should be borne by the United States; and (c) the advisability of adopting the project.

(Mar. 1, 1917, ch. 144, § 3, 39 Stat. 950; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 103-437, § 12(c), Nov. 2, 1994, 108 Stat. 4590.)

#### CODIFICATION

Sections 1 and 2 of act Mar. 1, 1917, are classified to sections 702 and 703 of this title. Section 4 amended section 643 of this title. See section 702h of this title.

#### AMENDMENTS

1994—Pub. L. 103-437 struck out par. at end which read as follows: "All examinations and reports which may now be made by the Board of Engineers for Rivers and Harbors upon request of the Committee on Rivers and Harbors relating to works or projects of navigation shall in like manner be made upon request of the Committee on Flood Control on all works and projects relating to flood control."

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**TERMINATION OF BOARD OF ENGINEERS FOR RIVERS AND HARBORS AND REASSIGNMENT OF DUTIES AND RESPONSIBILITIES**

For termination of Board of Engineers for Rivers and Harbors 180 days after Oct. 31, 1992, and reassignment of duties and responsibilities by Secretary of Army, see section 223 of Pub. L. 102-580, set out as a note under section 541 of this title.

**FLOODPLAIN MANAGEMENT**

For provisions relating to the reduction of the risk of flood loss, the minimization of the impact of floods on human safety, health, and welfare, and the management of floodplains, see Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

**EXECUTIVE ORDER No. 11296**

Ex. Ord. No. 11296, Aug. 10, 1966, 31 F.R. 10663, as amended by Pub. L. 90-608, ch. IV, § 402, Oct. 21, 1968, 82 Stat. 1194, which related to the evaluation of flood hazard in locating federally owned or financed buildings, roads, and other facilities, and in disposing of federal lands and properties, was revoked by Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

**§ 701-1. Declaration of policy of 1944 act**

In connection with the exercise of jurisdiction over the rivers of the Nation through the construction of works of improvement, for navigation or flood control, as herein authorized, it is declared to be the policy of the Congress to recognize the interests and rights of the States in determining the development of the watersheds within their borders and likewise their interests and rights in water utilization and control, as herein authorized to preserve and protect to the fullest possible extent established and potential uses, for all purposes, of the waters of the Nation's rivers; to facilitate the consideration of projects on a basis of comprehensive and coordinated development; and to limit the authorization and construction of navigation works to those in which a substantial benefit to navigation will be realized therefrom and which can be operated consistently with appropriate and economic use of the waters of such rivers by other users.

In conformity with this policy:

(a) Plans, proposals, or reports of the Chief of Engineers, Department of the Army, for any works of improvement for navigation or flood control not heretofore or herein authorized, shall be submitted to the Congress only upon compliance with the provisions of this paragraph (a). Investigations which form the basis of any such plans, proposals, or reports shall be conducted in such a manner as to give to the affected State or States, during the course of the investigations, information developed by the investigations and also opportunity for consultation regarding plans and proposals, and, to the extent deemed practicable by the Chief of Engineers, opportunity to cooperate in the investigations. If such investigations in whole or part are

concerned with the use or control of waters arising west of the ninety-seventh meridian, the Chief of Engineers shall give to the Secretary of the Interior, during the course of the investigations, information developed by the investigations and also opportunity for consultation regarding plans and proposals, and to the extent deemed practicable by the Chief of Engineers, opportunity to cooperate in the investigations. The relations of the Chief of Engineers with any State under this paragraph (a) shall be with the Governor of the State or such official or agency of the State as the Governor may designate. The term "affected State or States" shall include those in which the works or any part thereof are proposed to be located; those which in whole or part are both within the drainage basin involved and situated in a State lying wholly or in part west of the ninety-eighth meridian; and such of those which are east of the ninety-eighth meridian as, in the judgment of the Chief of Engineers, will be substantially affected. Such plans, proposals, or reports and related investigations shall be made to the end, among other things, of facilitating the coordination of plans for the construction and operation of the proposed works with other plans involving the waters which would be used or controlled by such proposed works. Each report submitting any such plans or proposals to the Congress shall set out therein, among other things, the relationship between the plans for construction and operation of the proposed works and the plans, if any, submitted by the affected States and by the Secretary of the Interior. The Chief of Engineers shall transmit a copy of his proposed report to each affected State, and, in case the plans or proposals covered by the report are concerned with the use or control of waters which rise in whole or in part west of the ninety-seventh meridian, to the Secretary of the Interior. Within 30 days from the date of receipt of said proposed report, the written views and recommendations of each affected State and of the Secretary of the Interior may be submitted to the Chief of Engineers. The Secretary of the Army shall transmit to the Congress, with such comments and recommendations as he deems appropriate, the proposed report together with the submitted views and recommendations of affected States and of the Secretary of the Interior. The Secretary of the Army may prepare and make said transmittal any time following said 30-day period. The letter of transmittal and its attachments shall be printed as a House or Senate document and shall be made publicly available.

(b) The use for navigation, in connection with the operation and maintenance of such works herein authorized for construction, of waters arising in States lying wholly or partly west of the ninety-eighth meridian shall be only such use as does not conflict with any beneficial consumptive use, present or future, in States lying wholly or partly west of the ninety-eighth meridian, of such waters for domestic, municipal, stock water, irrigation, mining, or industrial purposes.

(c) The Secretary of the Interior, in making investigations of and reports on works for irrigation and purposes incidental thereto shall, in relation to an affected State or States (as de-

fined in paragraph (a) of this section), and to the Secretary of the Army, be subject to the same provisions regarding investigations, plans, proposals, and reports as prescribed in paragraph (a) of this section for the Chief of Engineers and the Secretary of the Army. In the event a submission of views and recommendations, made by an affected State or by the Secretary of the Army pursuant to said provisions, sets forth objections to the plans or proposals covered by the report of the Secretary of the Interior, the proposed works shall not be deemed authorized except upon approval by an Act of Congress; and section 485h(a) of title 43 and section 590z-1(a) of title 16 are amended accordingly.

(Dec. 22, 1944, ch. 665, § 1, 58 Stat. 887; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 104-303, title II, § 223, Oct. 12, 1996, 110 Stat. 3697; Pub. L. 114-322, title I, § 1136(a), Dec. 16, 2016, 130 Stat. 1656.)

#### AMENDMENTS

2016—Subsec. (a). Pub. L. 114-322 inserted “and shall be made publicly available” after “House or Senate document”.

1996—Par. (a). Pub. L. 104-303 substituted “Within 30 days” for “Within ninety days” and “30-day period” for “ninety-day period”.

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#### APPLICABILITY OF SECTION TO PROJECTS AUTHORIZED BY FLOOD CONTROL ACTS

Pub. L. 90-483, title II, § 202, Aug. 13, 1968, 82 Stat. 739, provided that: “The provisions of section 1 of the Act of December 22, 1944 (Public Law Numbered 534, Seventy-eighth Congress, second session) [this section], shall govern with respect to projects authorized in this Act [Pub. L. 90-483], and the procedures therein set forth with respect to plans, proposals, or reports for works of improvement for navigation or flood control and for irrigation and purposes incidental thereto shall apply as if herein set forth in full.”

Similar provisions were contained in the following prior acts:

Nov. 7, 1966, Pub. L. 89-789, title II, § 202, 80 Stat. 1418.  
Oct. 27, 1965, Pub. L. 89-298, title II, § 203, 79 Stat. 1074.  
Sept. 3, 1954, ch. 1264, title II, § 202, 68 Stat. 1256.  
May 17, 1950, ch. 188, title II, § 202, 64 Stat. 170.

#### GLENDON UNIT, WYOMING, MISSOURI RIVER BASIN PROJECT

Joint Res. July 16, 1954, ch. 532, § 2, 68 Stat. 486, provided, with respect to the Glendon unit (dam and reservoir), Missouri River Basin Project, at the Glendon site on the North Platte River in Wyoming, for waiver of the provisions of subsec. (c) of this section. Section 1 of the Joint Resolution provided for the construction and operation of such unit by the Secretary of the Interior.

#### SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

### § 701a. Declaration of policy of 1936 act

It is recognized that destructive floods upon the rivers of the United States, upsetting or-

derly processes and causing loss of life and property, including the erosion of lands, and impairing and obstructing navigation, highways, railroads, and other channels of commerce between the States, constitute a menace to national welfare; that it is the sense of Congress that flood control on navigable waters or their tributaries is a proper activity of the Federal Government in cooperation with States, their political subdivisions, and localities thereof; that investigations and improvements of rivers and other waterways, including watersheds thereof, for flood-control purposes are in the interest of the general welfare; that the Federal Government should improve or participate in the improvement of navigable waters or their tributaries, including watersheds thereof, for flood-control purposes if the benefits to whomsoever they may accrue are in excess of the estimated costs, and if the lives and social security of people are otherwise adversely affected.

(June 22, 1936, ch. 688, § 1, 49 Stat. 1570.)

### § 701a-1. “Flood control” defined; jurisdiction of Federal investigations

The words “flood control” as used in section 701a of this title, shall be construed to include channel and major drainage improvements and flood prevention improvements for protection from groundwater-induced damages, and Federal investigations and improvements of rivers and other waterways for flood control and allied purposes shall be under the jurisdiction of and shall be prosecuted by the Department of the Army under the direction of the Secretary of the Army and supervision of the Chief of Engineers, and Federal investigations of watersheds and measures for run-off and water-flow retardation and soil-erosion prevention on watersheds shall be under the jurisdiction of and shall be prosecuted by the Department of Agriculture under the direction of the Secretary of Agriculture, except as otherwise provided by Act of Congress.

(Dec. 22, 1944, ch. 665, § 2, 58 Stat. 889; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 99-662, title IV, § 403, Nov. 17, 1986, 100 Stat. 4133.)

#### AMENDMENTS

1986—Pub. L. 99-662 inserted “and flood prevention improvements for protection from groundwater-induced damages” after “drainage improvements”.

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#### SAVINGS PROVISION

Authority of Secretary of Agriculture under this section as unaffected by repeal of Secretary’s authority under section 701b of this title, see section 7 of act Aug. 4, 1954, set out as a note under section 701b of this title.

#### SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

### § 701b. Supervision of Secretary of the Army; reclamation projects unaffected

Federal investigations and improvements of rivers and other waterways for flood control and allied purposes shall be under the jurisdiction of and shall be prosecuted by the Department of the Army under the direction of the Secretary of the Army and supervision of the Chief of Engineers, except as otherwise provided by Act of Congress; and in his reports upon examinations and surveys, the Secretary of the Army shall be guided as to flood-control measures by the principles set forth in section 701a of this title in the determination of the Federal interests involved: *Provided*, That the foregoing grant of authority shall not interfere with investigations and river improvements incident to reclamation projects that may now be in progress or may be hereafter undertaken by the Bureau of Reclamation of the Interior Department pursuant to any general or specific authorization of law.

(June 22, 1936, ch. 688, §2, 49 Stat. 1570; June 28, 1938, ch. 795, §1, 52 Stat. 1215; Aug. 18, 1941, ch. 377, §1, 55 Stat. 638; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; Aug. 4, 1954, ch. 656, §7, 68 Stat. 668.)

#### AMENDMENTS

1954—Act Aug. 4, 1954, repealed provisions conferring authority on the Department of Agriculture under the direction of the Secretary of Agriculture to make preliminary examinations and surveys and to prosecute works of improvement for runoff and waterflow retardation and soil erosion prevention on the watersheds of rivers and other waterways.

1941—Act Aug. 18, 1941, reenacted without change portion of section preceding semicolon.

1938—Act June 28, 1938, reenacted without change portion of section preceding semicolon.

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#### SAVINGS PROVISION

Section 7 of act Aug. 4, 1954, which amended this section by repealing provisions relating to the Department of Agriculture, provides in part that: "(a) the authority of that Department of Agriculture, under the direction of the Secretary, to prosecute the works of improvement for runoff and waterflow retardation and soil erosion prevention authorized to be carried out by the Department by the act of December 22, 1944 (58 Stat. 887), as amended [section 701a-1 of this title], and (b) the authority of the Secretary of Agriculture to undertake emergency measures for runoff retardation and soil erosion prevention authorized to be carried out by section 7 of the act of June 28, 1938 (52 Stat. 1215), as amended by section 216 of the act of May 17, 1950 (64 Stat. 163) [section 701b-1 of this title], shall not be affected by the provisions of this section."

#### RISK-BASED ANALYSIS METHODOLOGY

Pub. L. 104-303, title II, §202(h), Oct. 12, 1996, 110 Stat. 3676, provided that:

"(1) IN GENERAL.—The Secretary shall enter into an agreement with the National Academy of Sciences to

conduct a study of the Corps of Engineers' use of risk-based analysis for the evaluation of hydrology, hydraulics, and economics in flood damage reduction studies. The study shall include—

"(A) an evaluation of the impact of risk-based analysis on project formulation, project economic justification, and minimum engineering and safety standards; and

"(B) a review of studies conducted using risk-based analysis to determine—

"(i) the scientific validity of applying risk-based analysis in these studies; and

"(ii) the impact of using risk-based analysis as it relates to current policy and procedures of the Corps of Engineers.

"(2) REPORT.—Not later than 18 months after the date of the enactment of this Act [Oct. 12, 1996], the Secretary shall submit to Congress a report on the results of the study under paragraph (1), as well as such recommendations as the Secretary considers appropriate.

"(3) LIMITATION ON USE OF METHODOLOGY.—During the period beginning on the date of the enactment of this Act [Oct. 12, 1996] and ending 18 months after that date, if requested by a non-Federal interest, the Secretary shall refrain from using any risk-based technique required under the studies described in paragraph (1) for the evaluation and design of a project.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$250,000 to carry out this subsection."

### § 701b-1. Transfer of jurisdiction in certain cases to Department of Agriculture

In order to effectuate the policy declared in sections 701a and 701b of this title, and to correlate the program for the improvement of rivers and other waterways by the Department of the Army with the program for the improvement of watersheds by the Department of Agriculture, works of improvement for measures of run-off and water-flow retardation and soil-erosion prevention on the watersheds of waterways, for which works of improvement for the benefit of navigation and the control of destructive floodwaters and other provisions have been adopted and authorized to be prosecuted under the direction of the Secretary of the Army and supervision of the Chief of Engineers, are authorized to be prosecuted by the Department of Agriculture under the direction of the Secretary of Agriculture and in accordance with plans approved by him. The Secretary of Agriculture is authorized in his discretion to undertake such emergency measures for run-off retardation and soil-erosion prevention as may be needed to safeguard lives and property from floods and the products of erosion on any watershed whenever fire or any other natural element or force has caused a sudden impairment of that watershed: *Provided*, That not to exceed \$300,000 out of any funds heretofore or hereafter appropriated for the prosecution by the Secretary of Agriculture of works of improvement or measures for run-off and water-flow retardation and soil-erosion prevention on watersheds may be expended during any one fiscal year for such emergency measures. For prosecuting said work and measures there is authorized to be appropriated the sum of \$10,000,000 to be expended at the rate of \$2,000,000 per annum during the five-year period ending June 30, 1944: *Provided*, That such works and measures which are herein authorized to be prosecuted by the Department of Agriculture may be carried out on the watersheds of the Rio

Grande and Pecos Rivers subject to the proviso in section 701b of this title.

(June 28, 1938, ch. 795, § 7, 52 Stat. 1225; Dec. 22, 1944, ch. 665, § 15, 58 Stat. 907; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; May 17, 1950, ch. 188, title II, § 216, 64 Stat. 184.)

#### AMENDMENTS

1950—Act May 17, 1950, substituted “\$300,000” for “\$100,000”.

1944—Act Dec. 22, 1944, inserted provisions authorizing Secretary of Agriculture to undertake emergency work and limiting amount of annual expenditures for such work.

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#### SAVINGS PROVISION

Authority of Secretary of Agriculture under this section as unaffected by repeal of Secretary’s authority under section 701b of this title, see section 7 of act Aug. 4, 1954, set out as a note under section 701b of this title

#### SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

### § 701b-2. Cooperation by Secretaries of the Army and Agriculture; expenditures

In carrying out the purposes of the Act of June 22, 1936 (49 Stat. 1570), as amended and supplemented, the Secretary of the Army and the Secretary of Agriculture are authorized to cooperate with institutions, organizations, and individuals, and to utilize the services of Federal, State, and other public agencies, and to pay by check to the cooperating public agency, either in advance or upon the furnishing or performance of said services, all or part of the estimated or actual cost thereof; and to make expenditures for personal services and rent in the District of Columbia and elsewhere, for purchase of reference and law books and periodicals, for printing and binding, for the purchase, exchange, operation, and maintenance of motor-propelled passenger-carrying vehicles and motorboats for official use, and for other necessary expenses. The provisions of this section shall be applicable to any funds heretofore appropriated for the prosecution by the Secretary of Agriculture of works of improvement for measures of run-off and water-flow retardation and soil-erosion prevention upon watersheds.

(June 28, 1938, ch. 795, § 5, 52 Stat. 1223; Aug. 18, 1941, ch. 377, § 8, 55 Stat. 650; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

#### REFERENCES IN TEXT

Act of June 22, 1936 (49 Stat. 1570), as amended and supplemented, referred to in text, is act June 22, 1936, ch. 688, 49 Stat. 1570, as amended, popularly known as the Flood Control Act of June 22, 1936, which to the extent classified to the Code enacted sections 701a, 701b,

701c, 701d to 701f, and 701h of this title. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

1941—Act Aug. 18, 1941, changed the reference near the beginning of section and inserted sentence at end.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### TRANSFER OF FUNCTIONS

Functions of all officers, agencies and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

### § 701b-3. Examinations and surveys; availability of appropriations

Funds heretofore or hereafter appropriated for construction and maintenance of flood-control works by the Department of the Army shall be available for expenditure by the Department of the Army in making examinations and surveys for flood control heretofore or hereafter authorized, or in preparing reports in review thereof as authorized by law, in addition to funds heretofore authorized to be expended for such purposes by the Department of the Army.

(Aug. 11, 1939, ch. 699, § 2, 53 Stat. 1414; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

### § 701b-4. Administration of surveys; number authorized; reports

The surveys authorized to be performed under the direction of the Secretary of the Army as well as all duties performed by the Chief of Engineers under the direction of the Secretary of the Army shall be functions of the Engineer Corps, United States Army, and its head, to be administered under the direction of the Secretary of the Army and the supervision of the Chief of Engineers except as otherwise specifically provided by Congress: *Provided*, That the power and authority conferred by the Flood Control Act of June 28, 1938, and previously conferred, upon the Federal Power Commission shall remain in full force and effect: *Provided*, That no preliminary examination, survey, project, or estimate for new works other than those designated in this Act or some prior Act or joint resolution shall be made: *Provided further*, That after the regular or formal reports

made as required by law on any examination, survey, project, or work under way or proposed, are submitted, no supplemental or additional report or estimate shall be made unless authorized by law.

(Aug. 11, 1939, ch. 699, § 6, 53 Stat. 1415; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

#### REFERENCES IN TEXT

The Flood Control Act of June 28, 1938, referred to in text, is act June 28, 1938, ch. 795, 52 Stat. 1215, as amended, which to the extent classified to the Code is classified to sections 701b, 701b-1, 701b-2, 701c-1, 701f-1, 701i, 701j, 702a-1½, 702a-11, and 706 of this title. For complete classification of this Act to the Code, see Tables.

This Act, referred to in text, is act Aug. 11, 1939, ch. 699, 53 Stat. 1414, as amended, which to the extent classified to the Code enacted sections 558b-1, 701b-3, 701b-4, and 707 of this title and amended sections 701c-1 and 701g of this title. For complete classification of this Act to the Code, see Tables.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### TRANSFER OF FUNCTIONS

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

For transfer of functions of Federal Power Commission, with certain reservations, to chairman of such Commission, see Reorg. Plan No. 9 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out in the Appendix to Title 5, Government Organization and Employees.

#### § 701b-5. Omitted

#### CODIFICATION

Section, act Mar. 31, 1945, ch. 45, § 1, 59 Stat. 41, relating to appropriations subject to priority restrictions, was from the War Department Civil Appropriation Act, 1946, and was not repeated in subsequent appropriation acts.

#### § 701b-6. Examinations and surveys by Secretary of Agriculture

That, in order to further the declaration of policy and principles declared in sections 701a and 701b of this title, and to supplement the preliminary examinations and surveys which the Secretary of the Army has heretofore been, or is hereafter, authorized and directed to make of waterways with a view to the control of their floods, the Secretary of Agriculture be, and he is, authorized and directed to cause preliminary examinations and surveys to be made for run-off and water-flow retardation and soil-erosion prevention on the watersheds of said waterways, the costs thereof to be paid from appropriations heretofore or hereafter made for such purposes.

(Aug. 28, 1937, ch. 877, § 3, 50 Stat. 877; Jan. 19, 1948, ch. 2, § 1, 62 Stat. 4; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

#### AMENDMENTS

1948—Act Jan. 19, 1948, inserted "or is hereafter" after "heretofore been" to make section applicable to future preliminary surveys and examinations.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### § 701b-7. Supplemental reports to Senate Environment and Public Works Committee and House Public Works Committee

After the Secretary of Agriculture has submitted to Congress a regular or formal report made on any examination or survey, pursuant to the Flood Control Act approved June 22, 1936, as amended and supplemented, a supplemental, additional, or review report or estimate may be made if authorized by law or by resolution of the Committee on Public Works and Transportation of the House of Representatives or the Committee on Environment and Public Works of the Senate.

(Jan. 19, 1948, ch. 2, § 2, 62 Stat. 4; Pub. L. 103-437, § 12(d), Nov. 2, 1994, 108 Stat. 4590.)

#### REFERENCES IN TEXT

The Flood Control Act approved June 22, 1936, as amended and supplemented, referred to in text, is act June 22, 1936, ch. 688, 49 Stat. 1570, as amended, which to the extent classified to the Code enacted sections 701a, 701b, 701c, 701d to 701f, and 701h of this title. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

1994—Pub. L. 103-437 substituted "Committee on Public Works and Transportation of the House of Representatives or the Committee on Environment and Public Works of the Senate" for "Committee on Public Works of the House of Representatives or the Committee on Public Works of the Senate".

#### CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

#### § 701b-8. Submission of report by Chief of Engineers

It is declared to be the policy of the Congress that the following provisions shall be observed:

No project or any modification not authorized, of a project for flood control or rivers and harbors, shall be authorized by the Congress unless a report for such project or modification has been previously submitted by the Chief of Engineers, United States Army, in conformity with existing law.

(Sept. 3, 1954, ch. 1264, title II, § 202, 68 Stat. 1256.)

## CODIFICATION

Section comprises last two paragraphs of section 202 of act Sept. 3, 1954. First paragraph of section 202 is set out as a note under section 701–1 of this title.

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior acts:

May 17, 1950, ch. 188, title II, § 202, 64 Stat. 170.  
June 30, 1948, ch. 771, title II, § 202, 62 Stat. 1175.  
July 24, 1946, ch. 596, § 2, 60 Stat. 641.

#### § 701b–8a. Discontinuance of preliminary examination reports

For preliminary examinations and surveys authorized in previous river and harbor and flood control Acts, the Secretary of the Army is directed to cause investigations and reports for flood control and allied purposes, to be prepared under the supervision of the Chief of Engineers in the form of survey reports, and that preliminary examination reports shall no longer be required to be prepared.

(Pub. L. 85–500, title II, § 208, July 3, 1958, 72 Stat. 319.)

## REFERENCES IN TEXT

Previous river and harbor and flood-control Acts, referred to in text, means those acts prior to the River and Harbor Act of 1958 and the Flood Control Act of 1958, titles I and II of Pub. L. 85–500.

#### § 701b–9. Availability of appropriations for expenses incident to operation of power boats or vessels; expenses defined; certification of expenditures

On and after July 31, 1947, no appropriation under the Corps of Engineers shall be available for any expenses incident to operating any power-driven boat or vessel on other than Government business, and that Government business shall be construed to include transportation, lodging, and subsistence on inspection trips of Federal and State officials, having a public interest in authorized or proposed improvements for river and harbor and flood control, and any expenses incurred therefor shall be chargeable to river and harbor and flood control appropriations heretofore or hereafter made under rules and regulations to be prescribed by the Chief of Engineers: *Provided*, That such expenditures shall be certified by the Division Engineer as necessary and proper expenditures.

(July 31, 1947, ch. 411, § 1, 61 Stat. 688.)

## CODIFICATION

Section is also set out as section 575 of this title.

Section was formerly classified to sections 190a and 199 of Title 10 prior to the general revision and enactment of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, 70A Stat. 1.

#### § 701b–10. Omitted

## CODIFICATION

Section, act July 27, 1953, ch. 245, § 101, 67 Stat. 199; Pub. L. 114–322, title I, § 1160, Dec. 16, 2016, 130 Stat. 1667, related to a revolving fund for expenses of the Corps of Engineers.

Section is set out as section 576 of this title.

#### § 701b–11. Flood protection projects

##### (a) General considerations; nonstructural alternatives

In the survey, planning, or design by any Federal agency of any project involving flood protection, consideration shall be given to nonstructural alternatives to prevent or reduce flood damages including, but not limited to, floodproofing of structures; flood plain regulation; acquisition of flood plain lands for recreational, fish and wildlife, and other public purposes; and relocation with a view toward formulating the most economically, socially, and environmentally acceptable means of reducing or preventing flood damages.

##### (b) Non-Federal participation through nonstructural alternatives; limitation

Where a nonstructural alternative is recommended, non-Federal participation shall be comparable to the value of lands, easements, and rights-of-way which would have been required of non-Federal interests under section 701c of this title, for structural protection measures, but in no event shall exceed 20 per centum of the project costs.

(Pub. L. 93–251, title I, § 73, Mar. 7, 1974, 88 Stat. 32.)

## NONSTRUCTURAL FLOOD CONTROL POLICY

Pub. L. 104–303, title II, § 202(d), Oct. 12, 1996, 110 Stat. 3675, provided that:

“(1) REVIEW.—The Secretary shall conduct a review of policies, procedures, and techniques relating to the evaluation and development of flood control measures with a view toward identifying impediments that may exist to justifying nonstructural flood control measures as alternatives to structural measures.

“(2) REPORT.—Not later than 1 year after the date of the enactment of this Act [Oct. 12, 1996], the Secretary shall transmit to Congress a report on the findings of the review conducted under this subsection, together with any recommendations for modifying existing law to remove any impediments identified under such review.”

#### § 701b–12. Floodplain management requirements

##### (a) Compliance with floodplain management and insurance programs

Before construction of any project for local flood protection, or any project for hurricane or storm damage reduction, that involves Federal assistance from the Secretary, the non-Federal interest shall agree to participate in and comply with applicable Federal floodplain management and flood insurance programs.

##### (b) Floodplain management plans

Within 1 year after the date of signing a project cooperation agreement for construction of a project to which subsection (a) applies, the non-Federal interest shall prepare a floodplain management plan designed to reduce the impacts of future flood events in the project area. Such plan shall be implemented by the non-Federal interest not later than 1 year after completion of construction of the project.

##### (c) Guidelines

###### (1) In general

The Secretary shall develop guidelines for preparation of floodplain management plans by non-Federal interests under subsection (b).



**(2) Required elements**

The guidelines developed under paragraph (1) shall—

(A) address potential measures, practices, and policies to be undertaken by non-Federal interests to to<sup>1</sup> reduce loss of life, injuries, damages to property and facilities, public expenditures, and other adverse impacts associated with flooding and to preserve and enhance natural floodplain values; and

(B) address those measures to be undertaken by non-Federal interests to preserve the level of flood protection provided by a project to which subsection (a) applies.

**(3) Limitation on statutory construction**

Nothing in this subsection shall be construed to confer any regulatory authority upon the Secretary or the Administrator of the Federal Emergency Management Agency.

**(d) Technical support**

The Secretary may provide technical support to a non-Federal interest for a project to which subsection (a) applies for the development and implementation of plans prepared under subsection (b).

(Pub. L. 99-662, title IV, § 402, Nov. 17, 1986, 100 Stat. 4133; Pub. L. 100-676, § 14, Nov. 17, 1988, 102 Stat. 4026; Pub. L. 104-303, title II, § 202(c)(1), Oct. 12, 1996, 110 Stat. 3674; Pub. L. 106-541, title II, § 209(a), (c), Dec. 11, 2000, 114 Stat. 2591; Pub. L. 109-295, title VI, § 612(c), Oct. 4, 2006, 120 Stat. 1410.)

**AMENDMENTS**

2000—Subsec. (b). Pub. L. 106-541, § 209(c), substituted “Floodplain” for “Flood plain” in heading and “floodplain” for “flood plain” in first sentence.

Subsec. (c). Pub. L. 106-541, § 209(a), in first sentence substituted “The” for “Within 6 months after October 12, 1996, the”, designated second sentence as par. (2), inserted heading, substituted “The guidelines developed under paragraph (1) shall—” for “Such guidelines shall”, designated remainder of sentence as subpar. (A), inserted “to be undertaken by non-Federal interests to” after “policies”, added subpar. (B), and redesignated former par. (2) as (3).

1996—Pub. L. 104-303 substituted “Floodplain management requirements” for “Compliance with flood plain management and insurance programs” in section catchline and amended text generally. Prior to amendment, text read as follows: “Before construction of any project for local flood protection or any project for hurricane or storm damage reduction, the non-Federal interests shall agree to participate in and comply with applicable Federal flood plain management and flood insurance programs.”

1988—Pub. L. 100-676 inserted “or any project for hurricane or storm damage reduction” after “local flood protection”.

**CHANGE OF NAME**

“Administrator of the Federal Emergency Management Agency” substituted for “Director of the Federal Emergency Management Agency” in subsec. (c)(3) on authority of section 612(c) of Pub. L. 109-295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109-295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see sec-

tion 612(f)(2) of Pub. L. 109-295, set out as a note under section 313 of Title 6.

**EFFECTIVE DATE OF 2000 AMENDMENT**

Pub. L. 106-541, title II, § 209(b), Dec. 11, 2000, 114 Stat. 2591, provided that: “The amendments made by subsection (a) [amending this section] shall apply to any project or separable element of a project with respect to which the Secretary [of the Army] and the non-Federal interest have not entered a project cooperation agreement on or before the date of enactment of this Act [Dec. 11, 2000].”

**EFFECTIVE DATE OF 1996 AMENDMENT**

Pub. L. 104-303, title II, § 202(c)(2), Oct. 12, 1996, 110 Stat. 3675, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to any project or separable element thereof with respect to which the Secretary and the non-Federal interest have not entered into a project cooperation agreement on or before the date of the enactment of this Act [Oct. 12, 1996].”

**REFERENCE TO PROJECT COOPERATION AGREEMENT  
DEEMED REFERENCE TO PROJECT PARTNERSHIP AGREEMENT**

Reference to “project cooperation agreement” deemed to be reference to “project partnership agreement”, see section 2003(f)(2) of Pub. L. 110-114, set out as a note under section 1962d-5b of Title 42, The Public Health and Welfare.

**§ 701b-13. Repealed. Pub. L. 113-121, title I, § 1014(c)(3), June 10, 2014, 128 Stat. 1222**

Section, Pub. L. 104-303, title II, § 211, Oct. 12, 1996, 110 Stat. 3681; Pub. L. 106-53, title II, § 223, Aug. 17, 1999, 113 Stat. 296; Pub. L. 106-60, title VI, § 606, Sept. 29, 1999, 113 Stat. 501; Pub. L. 110-114, title V, § 5157, Nov. 8, 2007, 121 Stat. 1257, related to construction of flood control projects by non-Federal interests.

**§ 701b-14. Structural integrity evaluations****(a) In general**

Upon request of a non-Federal interest, the Secretary shall evaluate the structural integrity and effectiveness of a project for flood damage reduction and, if the Secretary determines that the project does not meet such minimum standards as the Secretary may establish and absent action by the Secretary the project will fail, the Secretary may take such action as may be necessary to restore the integrity and effectiveness of the project.

**(b) Priority**

The Secretary shall carry out an evaluation and take such actions as may be necessary under subsection (a) for the project for flood damage reduction, Arkansas River Levees, Arkansas.

(Pub. L. 110-114, title V, § 5004, Nov. 8, 2007, 121 Stat. 1191.)

**“SECRETARY” DEFINED**

Secretary means the Secretary of the Army, see section 2 of Pub. L. 110-114, set out as a note under section 2201 of this title.

**§ 701b-15. Non-Federal plans to provide additional flood risk reduction****(a) In general**

If requested by a non-Federal interest, the Secretary shall carry out a locally preferred

<sup>1</sup> So in original.

plan that provides a higher level of protection than a flood risk management project authorized under this Act if the Secretary determines that—

- (1) the plan is technically feasible and environmentally acceptable; and
- (2) the benefits of the plan exceed the costs of the plan.

**(b) Non-Federal cost share**

If the Secretary carries out a locally preferred plan under subsection (a), the Federal share of the cost of the project shall be not greater than the share as provided by law for elements of the national economic development plan.

(Pub. L. 113–121, title I, §1036, June 10, 2014, 128 Stat. 1234.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 113–121, June 10, 2014, 128 Stat. 1193, known as the Water Resources Reform and Development Act of 2014. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of this title and Tables.

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113–121, set out as a note under section 2201 of this title.

**§ 701b–16. Management of flood risk reduction projects**

**(a) In general**

If 2 or more flood control projects are located within the same geographic area, the Secretary shall, at the request of the non-Federal interests for the affected projects, consider those projects as a single program for budgetary or project management purposes, if the Secretary determines that doing so would not be incompatible with the authorized project purposes.

**(b) Cost share**

**(1) In general**

If any work on a project to which subsection (a) applies is required solely because of impacts to that project from a navigation project, the cost of carrying out that work shall be shared in accordance with the cost-sharing requirements for the navigation project.

**(2) Use of amounts**

Work described in paragraph (1) may be carried out using amounts made available under subsection (a).

(Pub. L. 113–121, title III, §3012, June 10, 2014, 128 Stat. 1284.)

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113–121, set out as a note under section 2201 of this title.

**§ 701c. Rights-of-way, easements, etc.; acquisition by local authorities; maintenance and operation; protection of United States from liability for damages; requisites to run-off and water-flow retardation and soil erosion prevention assistance**

After June 22, 1936, no money appropriated under authority of section 701f of this title shall

be expended on the construction of any project until States, political subdivisions thereof, or other responsible local agencies have given assurances satisfactory to the Secretary of the Army that they will (a) provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction of the project, except as otherwise provided herein; (b) hold and save the United States free from damages due to the construction works; (c) maintain and operate all the works after completion in accordance with regulations prescribed by the Secretary of the Army: *Provided*, That the construction of any dam authorized herein, may be undertaken without delay when the dam site has been acquired and the assurances prescribed herein have been furnished, without awaiting the acquisition of the easements and rights-of-way required for the reservoir area: *And provided further*, That whenever expenditures for lands, easements, and rights-of-way by States, political subdivisions thereof, or responsible local agencies for any individual project or useful part thereof shall have exceeded the present estimated construction cost therefor, the local agency concerned may be reimbursed one-half of its excess expenditures over said estimated construction cost: *And provided further*, That when benefits of any project or useful part thereof accrue to lands and property outside of the State in which said project or part thereof is located, the Secretary of the Army with the consent of the State wherein the same are located may acquire the necessary lands, easements, and rights-of-way for said project or part thereof after he has received from the States, political subdivisions thereof, or responsible local agencies benefited the present estimated cost of said lands, easements, and rights-of-way, less one-half the amount by which the estimated cost of these lands, easements, and rights-of-way exceeds the estimated construction cost corresponding thereto: *And provided further*, That the Secretary of the Army shall determine the proportion of the present estimated cost of said lands, easements, and rights-of-way that each State, political subdivision thereof, or responsible local agency should contribute in consideration for the benefits to be received by such agencies: *And provided further*, That whenever not less than 75 per centum of the benefits as estimated by the Secretary of the Army of any project or useful part thereof accrue to lands and property outside of the State in which said project or part thereof is located, provision (c) of this section shall not apply thereto; nothing herein shall impair or abridge the powers now existing in the Department of the Army with respect to navigable streams: *And provided further*, That nothing herein shall be construed to interfere with the completion of any reservoir or flood control work authorized by the Congress and now under way.

(d) As a condition to the extending of any benefits, in prosecuting measures for run-off and water-flow retardation and soil erosion prevention authorized by Act of Congress pursuant to the policy declared in section 701a of this title, to any lands not owned or controlled by the United States or any of its agencies, the Sec-

retary of Agriculture may, insofar as he may deem necessary for the purposes of such Act, require—

(1) The enactment and reasonable safeguards for the enforcement of State and local laws imposing suitable permanent restrictions on the use of such lands and otherwise providing for run-off and waterflow retardation and soil-erosion prevention;

(2) Agreements or covenants as to the permanent use of such lands; and

(3) Contributions in money, services, materials, or otherwise to any operations conferring such benefits.

(June 22, 1936, ch. 688, § 3, 49 Stat. 1571; Aug. 28, 1937, ch. 877, § 4, 50 Stat. 877; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

#### REFERENCES IN TEXT

Herein, referred to in text, means act June 22, 1936, ch. 688, 49 Stat. 1570, as amended, popularly known as the Flood Control Act of June 22, 1936, which to the extent classified to the Code enacted sections 701a, 701b, 701c, 701d to 701f, and 701h of this title. For complete classification of this Act to the Code, see Tables. Portions of section 5 of act June 22, 1936, enumerating certain dams to be constructed, were not classified to the Code.

#### AMENDMENTS

1937—Act Aug. 28, 1937, added subsec. (d).

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### APPLICABILITY OF SECTION TO FLOOD CONTROL WORKS AUTHORIZED BY FLOOD CONTROL ACTS

Pub. L. 90-483, title II, § 201, Aug. 13, 1968, 82 Stat. 739, provided that: "Section 3 of the Act approved June 22, 1936 (Public Law Numbered 738, Seventy-fourth Congress) [this section], as amended by section 2 of the Act approved June 28, 1938 (Public Law Numbered 761, Seventy-fifth Congress) [section 701c-1 of this title], shall apply to all works authorized in this title except that for any channel improvement or channel rectification project, provisions (a), (b), and (c) of section 3 of said Act of June 22, 1936 [this section], shall apply thereto, except as otherwise provided by law. The authorization for any flood control project herein authorized by this Act [Pub. L. 90-483] requiring local cooperation shall expire five years from the date on which local interests are notified in writing by the Secretary of the Army or his designee of the requirements of local cooperation, unless said interests shall within said time furnish assurances satisfactory to the Secretary of the Army that the required cooperation will be furnished."

Similar provisions were contained in the following prior acts:

Nov. 7, 1966, Pub. L. 89-789, title II, § 201, 80 Stat. 1418.  
Oct. 27, 1965, Pub. L. 89-298, title II, § 202, 79 Stat. 1074.  
Sept. 3, 1954, ch. 1264, title II, § 201, 68 Stat. 1256.  
May 17, 1950, ch. 188, title II, § 201, 64 Stat. 170.  
June 30, 1948, ch. 771, title II, § 201, 62 Stat. 1175.  
July 24, 1946, ch. 596, § 2, 60 Stat. 641.  
Dec. 22, 1944, ch. 665, § 3, 58 Stat. 889.

#### APPLICATION OF SECTION

Act June 28, 1938, ch. 795, § 2, 52 Stat. 1215, provided that this section, as theretofore amended and therein

further modified, should apply to all flood control projects, except as otherwise specifically provided by law. For modification of this section by that act, see section 701c-1 of this title.

#### MUSKINGUM RIVER VALLEY

Provisions of act June 28, 1938, ch. 795, § 2, 52 Stat. 1215, referred to above, were extended to the Muskingum River Valley dams and reservoirs by section 4 of act Aug. 11, 1939, ch. 699, 53 Stat. 1414.

#### § 701c-1. Acquisition of titles for certain projects and to lands, easements, rights-of-way; reimbursement of local agencies

In case of any dam and reservoir project, or channel improvement or channel rectification project for flood control, herein authorized or heretofore authorized by the Act of June 22, 1936, as amended, and sections 642a, 702a, 702a-1, 702a-2 to 702d, 702e to 702h, 702i to 702m, and 704 of this title, title to all lands, easements, and rights-of-way for such project shall be acquired by the United States or by States, political subdivisions thereof or other responsible local agencies and conveyed to the United States, and provisions of clauses (a), (b), and (c) of section 701c of this title shall not apply thereto. Notwithstanding any restrictions, limitations, or requirement of prior consent provided by any other Act, the Secretary of the Army is authorized and directed to acquire in the name of the United States title to all lands, easements, and rights-of-way necessary for any dam and reservoir project or channel improvement or channel rectification project for flood control, with funds heretofore or hereafter appropriated or made available for such projects, and States, political subdivisions thereof, or other responsible local agencies, shall be granted and reimbursed, from such funds, sums equivalent to actual expenditures deemed reasonable by the Secretary of the Army and the Chief of Engineers and made by them in acquiring lands, easements, and rights-of-way for any dam and reservoir project, or any channel improvement or channel rectification project for flood control heretofore or herein authorized: *Provided*, That no reimbursement shall be made for any indirect or speculative damages: *Provided further*, That lands, easements, and rights-of-way shall include lands on which dams, reservoirs, channel improvements, and channel rectifications are located; lands or flowage rights in reservoirs and highway, railway, and utility relocation: *Provided further*, That in all cases of the acquisition hereunder by the United States from the Los Angeles County Flood Control District or the Muskingum Watershed Conservancy District of lands, easements, or rights-of-way, wherein the written opinion of the Attorney General in favor of the validity of the title to such lands, easements, or rights-of-way is or may be required or authorized by law, the Attorney General may, in his discretion, base such opinion upon a certificate of title of the district from which said lands, easements, or rights-of-way are to be acquired accompanied by an agreement, duly executed by the district in conformity with the constitutions and laws of the State where the district in question is situated to indemnify the United States against all claims, liabilities, loss, expenses, and attorneys' fees of whatsoever

kind or nature, resulting from or arising out of any defect or defects whatsoever in the title to any such lands, easements, or rights-of-way so conveyed to the United States, including all just compensation, costs, and expenses which may be incurred in any condemnation proceeding deemed necessary and instituted by the United States in order to perfect title to any such lands, easements, or rights-of-way.

(June 28, 1938, ch. 795, § 2, 52 Stat. 1215; Aug. 11, 1939, ch. 699, § 5, 53 Stat. 1415; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

#### REFERENCES IN TEXT

Herein, referred to in text, means act June 28, 1938, ch. 795, 75 Stat. 1215, as amended, popularly known as the Flood Control Act of June 28, 1938, which to the extent classified to the Code enacted sections 701b, 701b-1, 701b-2, 701c-1, 701f-1, 701i, 701j, 702a-1½, 702a-11, and 706 of this title. For complete classification of this Act to the Code, see Tables.

Act of June 22, 1936, referred to in text, is act June 22, 1936, ch. 688, 49 Stat. 1570, as amended, popularly known as the Flood Control Act of June 22, 1936, which to the extent classified to the Code enacted sections 701a, 701b, 701c, 701d to 701f, and 701h of this title. For complete classification of this Act to the Code, see Tables.

#### CODIFICATION

Section comprises last paragraph of section 2 of act June 28, 1938. First paragraph of such section 2 is referred to in an Application of Section note under section 701c of this title.

#### AMENDMENTS

1939—Act Aug. 11, 1939, inserted last proviso.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### § 701c-2. Acquisition and sale of land

The provisions of sections 593 to 595 of this title relating to river and harbor improvements are made applicable to works of flood control heretofore or hereafter authorized.

(Aug. 18, 1941, ch. 377, § 6, 55 Stat. 650; Oct. 31, 1951, ch. 654, § 3(6), 65 Stat. 708.)

#### AMENDMENTS

1951—Act Oct. 31, 1951, struck out "558a and" in the reference to other sections.

#### § 701c-3. Lease receipts; payment of portion to States

75 per centum of all moneys received and deposited in the Treasury of the United States during any fiscal year on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes, including the development of hydroelectric power, shall be paid at the end of such year by the Secretary of the Treasury to the State in which such property is situated, to be expended as the State legislature may prescribe for the benefit

of public schools and public roads of the county, or counties, in which such property is situated, or for defraying any of the expenses of county government in such county or counties, including public obligations of levee and drainage districts for flood control and drainage improvements: *Provided*, That when such property is situated in more than one State or county, the distributive share to each from the proceeds of such property shall be proportional to its area therein. For the purposes of this section, the term "money" includes, but is not limited to, such bonuses, royalties and rentals (and any interest or other charge paid to the United States by reason of the late payment of any royalty, rent, bonus or other amount due to the United States) paid to the United States from a mineral lease issued under the authority of the Mineral Leasing Act for Acquired Lands [30 U.S.C. 351 et seq.] or paid to the United States from a mineral lease in existence at the time of the acquisition of the land by the United States.

(Aug. 18, 1941, ch. 377, § 7, 55 Stat. 650; July 24, 1946, ch. 596, § 5, 60 Stat. 642; June 16, 1953, ch. 114, 67 Stat. 61; Sept. 3, 1954, ch. 1264, title II, § 206, 68 Stat. 1266; Pub. L. 102-486, title XXV, § 2506(c), Oct. 24, 1992, 106 Stat. 3107.)

#### REFERENCES IN TEXT

The Mineral Leasing Act for Acquired Lands, referred to in text, is act Aug. 7, 1947, ch. 513, 61 Stat. 913, as amended, which is classified generally to chapter 7 (§ 351 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 351 of Title 30 and Tables.

#### AMENDMENTS

1992—Pub. L. 102-486 inserted sentence at end defining term "money" for purposes of this section.

1954—Act Sept. 3, 1954, extended the 75 percent rental provision so as also to include moneys received and deposited with respect to the leasing of lands acquired for navigation and allied purposes.

1953—Act June 16, 1953, inserted "or for defraying any of the expenses of county government in such county or counties, including public obligations of levee and drainage districts for flood control and drainage improvements" after "situated".

1946—Act July 24, 1946, increased the percentage return to the States from 25 percent to 75 percent.

#### § 701d. Compacts between States; consent of Congress

The consent of Congress is given to any two or more States to enter into compacts or agreements in connection with any project or operation authorized by this Act for flood control or the prevention of damage to life or property by reason of floods upon any stream or streams and their tributaries which lie in two or more such States, for the purpose of providing, in such manner and such proportion as may be agreed upon by such States and approved by the Secretary of the Army, funds for construction and maintenance, for the payment of damages, and for the purchase of rights-of-way, lands, and easements in connection with such project or operation. No such compact or agreement shall become effective without the further consent or ratification of Congress, except a compact or agreement which provides that all money to be

expended pursuant thereto and all work to be performed thereunder shall be expended and performed by the Department of the Army, with the exception of such reasonable sums as may be reserved by the States entering into the compact or agreement for the purpose of collecting taxes and maintaining the necessary State organizations for carrying out the compact or agreement.

(June 22, 1936, ch. 688, § 4, 49 Stat. 1571; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

#### REFERENCES IN TEXT

This Act, referred to in text, is act June 22, 1936, ch. 688, 49 Stat. 1570, as amended, popularly known as the Flood Control Act of June 22, 1936, which to the extent classified to the Code enacted sections 701a, 701b, 701c, 701d to 701f, and 701h of this title. For complete classification of this Act to the Code, see Tables. Portions of section 5 and sections 6 and 7 of act June 22, 1936, enumerating certain projects and operations with regard to flood control, were not classified to the Code.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

### § 701e. Effect of act June 22, 1936, on provisions for Mississippi River and other projects

Nothing in this Act shall be construed as repealing or amending any provision of sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title. The authority conferred by this Act and any funds appropriated pursuant thereto for expenditure are supplemental to all other authority and appropriations relating to the departments or agencies concerned, and nothing in this Act shall be construed to limit or retard any department or agency in carrying out similar and related activities heretofore or hereafter authorized, or to limit the exercise of powers conferred on any department or agency by other provisions of law is<sup>1</sup> carrying out similar and related activities.

(June 22, 1936, ch. 688, § 8, 49 Stat. 1596.)

#### REFERENCES IN TEXT

This Act, referred to in text, is act June 22, 1936, ch. 688, 49 Stat. 1570, as amended, popularly known as the Flood Control Act of June 22, 1936, which to the extent classified to the Code enacted sections 701a, 701b, 701c, 701d to 701f, and 701h of this title. For complete classification of this Act to the Code, see Tables.

### § 701f. Authorization of appropriations

The sum of \$310,000,000 is authorized to be appropriated for carrying out the improvements herein and the sum of \$10,000,000 is authorized to be appropriated and expended in equal amounts by the Departments of the Army and Agriculture for carrying out any examinations and surveys provided for in this Act and other Acts of Congress.

<sup>1</sup> So in original. Probably should be "in".

(June 22, 1936, ch. 688, § 9, 49 Stat. 1596; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

#### REFERENCES IN TEXT

"Herein", and "this Act", referred to in text, means act June 22, 1936, ch. 688, 49 Stat. 1570, as amended, popularly known as the Flood Control Act of June 22, 1936, which to the extent classified to the Code enacted sections 701a, 701b, 701c, 701d to 701f, and 701h of this title. For complete classification of this Act to the Code, see Tables. Portions of section 5 of act June 22, 1936, enumerating certain improvements with regard to flood control, and sections 6 and 7 of that act, relating to examinations and surveys, were not classified to the Code.

#### CODIFICATION

The first proviso, relating to a limitation upon the amount of expenditure during the fiscal year 1937, was deleted as executed and obsolete. The second proviso, relating to payment from funds available to the Works Progress Administration, was also omitted as executed and obsolete. The Works Progress Administration was renamed the Work Projects Administration by Reorg. Plan No. 1 of 1939, § 306, eff. July 1, 1939, 4 F.R. 2727, 53 Stat. 1423, set out in the Appendix to Title 5, Government Organization and Employees. Liquidation was ordered by President's letter of December 4, 1942, and appropriations for it authorized by act July 12, 1943, ch. 229, title I, 57 Stat. 540.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### ADOPTION OF IMPROVEMENTS

Works of improvement adopted and authorized to be prosecuted are listed in section 5 of act June 22, 1936, ch. 688, 49 Stat. 1596, referred to in this section, as amended or supplemented by acts Aug. 28, 1937, ch. 877, § 1, 50 Stat. 876; June 28, 1938, ch. 795, § 4, 52 Stat. 1216; Aug. 11, 1939, ch. 699, § 4, 53 Stat. 1414; Aug. 18, 1941, ch. 377, § 3, 55 Stat. 639; Dec. 22, 1944, ch. 665, § 10, 58 Stat. 891; July 24, 1946, ch. 596, § 10, 60 Stat. 643.

#### AUTHORIZATION OF EXAMINATIONS AND SURVEYS

Localities at which preliminary examinations and surveys are authorized to be made are listed in acts June 22, 1936, ch. 688, § 6, 49 Stat. 1592; Aug. 28, 1937, ch. 877, § 5, 50 Stat. 877; and June 28, 1938, ch. 795, § 6, 52 Stat. 1223; Aug. 11, 1939, ch. 699, § 6, 53 Stat. 1415; Aug. 18, 1941, ch. 377, § 4, 55 Stat. 648; Dec. 22, 1944, ch. 665, § 11, 58 Stat. 903; July 24, 1946, ch. 596, § 11, 60 Stat. 651.

#### CONTINUANCE OF EXAMINATIONS AND SURVEYS

Localities at which the continuance of examinations and surveys already undertaken is authorized are listed in act June 22, 1936, ch. 688, § 7, 49 Stat. 1596.

### § 701f-1. Additional authorization

The sum of \$375,000,000 is hereby authorized to be appropriated for carrying out the improvements herein over the five-year period ending June 30, 1944, and the sum of \$10,000,000 additional is authorized to be appropriated and expended in equal amounts by the Departments of the Army and Agriculture for carrying out any examinations and surveys provided for in this Act and any other Acts of Congress, to be pros-

ecuted by said Departments. The sum of \$1,500,000 additional is authorized to be appropriated and expended by the Secretary of Energy for carrying out any examinations and surveys provided for in this Act or any other Acts of Congress, to be prosecuted by the said Secretary of Energy.

(June 28, 1938, ch. 795, § 9, 52 Stat. 1226; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 95-91, title III, § 301(b), Aug. 4, 1977, 91 Stat. 578.)

#### REFERENCES IN TEXT

“Herein” and “this Act”, referred to in text, mean act June 28, 1938, ch. 795, 52 Stat. 1215, as amended, popularly known as the Flood Control Act of June 28, 1938, which to the extent classified to the Code enacted sections 701b, 701b-1, 701b-2, 701c-1, 701f-1, 701i, 701j, 702a-1½, 702a-11, and 706 of this title. For complete classification of this Act to the Code, see Tables.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### TRANSFER OF FUNCTIONS

“Secretary of Energy” substituted in text for “Federal Power Commission” on authority of Pub. L. 95-91, title III, § 301(b), Aug. 4, 1977, 91 Stat. 577, which is classified to section 7151(b) of Title 42, The Public Health and Welfare.

For transfer of functions of Federal Power Commission, with certain reservations, to chairman of such Commission, see Reorg. Plan No. 9 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out in the Appendix to Title 5, Government Organization and Employees.

#### ADDITIONAL AUTHORIZATION

Sections 15 and 17 of act July 24, 1946, ch. 596, 60 Stat. 653, provided:

“SEC. 15. That the sum of \$772,000,000 is hereby authorized to be appropriated for carrying out improvements by the War Department [now Department of the Army], the sum of \$10,000,000 additional is authorized to be appropriated and expended in equal amounts by the Departments of War [now Army] and Agriculture for carrying out any examination or survey provided for in this Act and any other Acts of Congress to be prosecuted by said Departments.

“SEC. 17. That the \$5,000,000 authorized to be appropriated in section 10 of the Flood Control Act approved August 18, 1941 [set out as a note under this section], is reauthorized to be appropriated, and the sum of \$20,000,000 additional is authorized to be appropriated, for expenditure by the Department of Agriculture for the prosecution of the works of improvement authorized to be carried out by that Department by the Flood Control Act of December 22, 1944 [act Dec. 22, 1944, ch. 665, 58 Stat. 887].”

Act Aug. 18, 1941, ch. 377, § 10, 55 Stat. 651, provided as follows: “That the sum of \$275,000,000 is hereby authorized to be appropriated for carrying out the improvements herein, the sum of \$10,000,000 additional is authorized to be appropriated and expended in equal amounts by the Departments of War [now Army] and Agriculture for carrying out any examinations and surveys provided for in this Act and any other Acts of Congress to be prosecuted by said departments. There is also hereby authorized to be appropriated for expenditure by the Department of Agriculture in carrying on

works of improvement of the character specified in section 7 of the Flood Control Act of June 28, 1938 [section 701b-1 of this title], and which the Department is not otherwise authorized to undertake, such additional sums, not to exceed \$5,000,000, as may be necessary for that purpose. All appropriations necessary for operation and maintenance of flood-control works authorized by law to be operated and maintained by the United States are hereby authorized.”

#### § 701f-2. Funds for specific and authorized projects merged with and accounted for under regular annual appropriation

Funds on and after May 17, 1950, appropriated for a specific and heretofore authorized project for a river, harbor, or flood-control works shall be merged with and be accounted for under the regular annual appropriation title applicable to such item.

(May 17, 1950, ch. 188, title II, § 207, 64 Stat. 182.)

#### § 701f-3. Expenditure in watersheds of funds appropriated for flood prevention purposes

On and after May 23, 1955, the funds appropriated for flood prevention purposes may be expended in watersheds heretofore authorized by section 13 of the Flood Control Act of December 22, 1944, as amended, for necessary measures for the prevention of erosion, floodwater, and sediment damages, including gully control, floodwater detention, and floodway structures, in areas other than those over which the Department of the Army has jurisdiction and responsibility, and where the Army does have jurisdiction and responsibility, may enter into agreements with the Army to carry out jointly the measures heretofore set out and in areas where the Secretary is authorized to purchase land rights for structural measures, the Secretary in lieu of such acquisition, may reimburse local organizations for such proportionate share of the cost of land rights furnished by local organizations as the Secretary deems equitable in consideration of the national interest.

(May 23, 1955, ch. 43, title I, § 101, 69 Stat. 54; Pub. L. 91-566, title I, § 101, Dec. 22, 1970, 84 Stat. 1484.)

#### REFERENCES IN TEXT

Section 13 of the Flood Control Act of December 22, 1944, referred to in text, is section 13 of act Dec. 22, 1944, ch. 665, 58 Stat. 905, which was not classified to the Code. Such section 13 authorized the following works of improvement for run-off and waterflow retardation, and soil erosion prevention: Los Angeles River Basin; Santa Ynez River Watershed; Trinity River Basin (Texas); Little Tallahatchie River Watershed; Yazoo River Watershed; Coosa River Watershed (above Rome, Georgia); Little Sioux River Watershed; Potomac River Watershed; Buffalo Creek Watershed (New York); Colorado River Watershed (Texas), and Washita River Watershed.

#### AMENDMENTS

1970—Pub. L. 91-566 empowered the Secretary, where the Army does have jurisdiction and responsibility, to enter into agreements with the Army to carry out jointly the measures heretofore set out and in areas where the Secretary is authorized to purchase land rights for structural measures, permitted the Secretary in lieu of such acquisition, to reimburse local organizations for such proportionate share of the cost of land rights furnished as the Secretary deems equitable in consideration of the national interest.

### § 701g. Removal of obstructions; clearing channels

The Secretary of the Army is authorized to allot not to exceed \$7,500,000 from any appropriations heretofore or hereafter made for any one fiscal year for flood control, for removing accumulated snags and other debris, and clearing and straightening the channel in navigable streams and tributaries thereof, when in the opinion of the Chief of Engineers such work is advisable in the interest of flood control: *Provided*, That not more than \$500,000 shall be expended for this purpose for any single tributary from the appropriations for any one fiscal year.

(Aug. 28, 1937, ch. 877, § 2, 50 Stat. 877; Aug. 11, 1939, ch. 699, § 1, 53 Stat. 1414; Aug. 18, 1941, ch. 377, § 9, 55 Stat. 650; July 24, 1946, ch. 596, § 13, 60 Stat. 652; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Sept. 3, 1954, ch. 1264, title II, § 208, 68 Stat. 1266; Pub. L. 93-251, title I, § 26, Mar. 7, 1974, 88 Stat. 20; Pub. L. 99-662, title IX, § 915(b), Nov. 17, 1986, 100 Stat. 4191.)

#### AMENDMENTS

1986—Pub. L. 99-662 substituted “\$7,500,000” for “\$5,000,000” and “\$500,000” for “\$250,000”.

1974—Pub. L. 93-251 substituted “\$5,000,000” for “\$2,000,000” and “\$250,000” for “\$100,000”.

1954—Act Sept. 3, 1954, substituted “\$2,000,000” for “\$1,000,000” and “\$100,000” for “\$50,000”.

1946—Act July 24, 1946, substituted “\$1,000,000” for “\$500,000” and “\$50,000” for “\$25,000”.

1941—Act Aug. 18, 1941, substituted “\$500,000” for “\$300,000”.

1939—Act Aug. 11, 1939, authorized Secretary to allot instead of to approve amount for flood control and limited amount allotted instead of expended for any single tributary.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-662 not applicable to any project under contract for construction on Nov. 17, 1986, see section 915(i) of Pub. L. 99-662, set out as a note under section 426g of this title.

### § 701h. Contributions by States, political subdivisions, and other non-Federal interests

The Secretary of the Army is authorized to receive from States and political subdivisions thereof and other non-Federal interests, such funds as may be contributed by them for work, which includes planning and design, to be expended in connection with funds appropriated by the United States for any authorized water resources development study or project, including a project for navigation on the inland waterways, whenever such work and expenditure may be considered by the Secretary of the Army, on recommendation of the Chief of Engineers, as advantageous in the public interest, and the plans for any reservoir project may, in the discretion of the Secretary of the Army, on recom-

mendation of the Chief of Engineers, be modified to provide additional storage capacity for domestic water supply or other conservation storage, on condition that the cost of such increased storage capacity is contributed by local agencies and that the local agencies agree to utilize such additional storage capacity in a manner consistent with Federal uses and purposes: *Provided*, That the Secretary is authorized to receive and expend funds from a State or a political subdivision thereof, and other non-Federal interests or private entities, to operate a hurricane barrier project to support recreational activities at or in the vicinity of the project, at no cost to the Federal Government, if the Secretary determines that operation for such purpose is not inconsistent with the operation and maintenance of the project for the authorized purposes of the project: *Provided further*, That when contributions made by States and political subdivisions thereof and other non-Federal interests, are in excess of the actual cost of the work contemplated and properly chargeable to such contributions, such excess contributions may, with the approval of the Secretary of the Army, be returned to the proper representatives of the contributing interests: *Provided further*, That the term “States” means the several States, the District of Columbia, the commonwealths, territories, and possessions of the United States, and Federally recognized Indian tribes: *Provided further*, That the term “non-Federal interest” has the meaning given that term in section 1962d-5b of title 42.

(June 22, 1936, ch. 688, § 5 (part), 49 Stat. 1572; July 19, 1937, ch. 511, § 1, 50 Stat. 518; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 106-53, title II, § 203, Aug. 17, 1999, 113 Stat. 285; Pub. L. 112-74, div. B, title I, § 111(a), Dec. 23, 2011, 125 Stat. 858; Pub. L. 113-121, title I, § 1015(a), June 10, 2014, 128 Stat. 1222.)

#### CODIFICATION

When originally enacted, section 5 of act June 22, 1936, which consisted of a paragraph (including a proviso) authorizing works of improvement followed by numerous headings and paragraphs describing those authorized works, was not classified to the Code. Act July 19, 1937, amended section 5 of act June 22, 1936, by inserting two additional provisos at the end of the first paragraph. The provisos inserted by the 1937 Act, as amended, form the sole basis for the text appearing in this section, with minor editorial changes to the introductory language of the provisos. Subsequent amendments to section 5 of act June 22, 1936, have generally been directed to the text of section 5 as it has appeared in the Code and have not taken into account the portion of that section that has never been set out. Those amendments have been executed as directed, to reflect the probable intent of Congress, and amendment notes below reflect such execution without further comment.

#### AMENDMENTS

2014—Pub. L. 113-121, § 1015(a)(4), substituted “; *Provided further*, That the term ‘non-Federal interest’ has the meaning given that term in section 1962d-5b of title 42.” for period at end.

Pub. L. 113-121, § 1015(a)(3), substituted “*Provided*, That the Secretary is authorized to receive and expend funds from a State or a political subdivision thereof, and other non-Federal interests or private entities, to operate a hurricane barrier project to support recreational activities at or in the vicinity of the project, at no cost to the Federal Government, if the Secretary

determines that operation for such purpose is not inconsistent with the operation and maintenance of the project for the authorized purposes of the project: *Provided further*, That when” for “*Provided*, That when”.

Pub. L. 113-121, §1015(a)(1), (2), inserted “and other non-Federal interests” after “States and political subdivisions thereof” in two places and inserted “, including a project for navigation on the inland waterways,” after “study or project”.

2011—Pub. L. 112-74 substituted “water resources development study or project” for “flood control or environmental restoration work” and inserted “for work, which includes planning and design,” before “to be expended” and “: *Provided further*, That the term ‘States’ means the several States, the District of Columbia, the commonwealths, territories, and possessions of the United States, and Federally recognized Indian tribes” before period at end.

1999—Pub. L. 106-53 inserted “or environmental restoration” after “flood control”.

1937—Act July 19, 1937, inserted text of section.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### NOTIFICATION FOR CONTRIBUTED FUNDS

Pub. L. 113-121, title I, §1015(b), June 10, 2014, 128 Stat. 1223, provided that: “Prior to accepting funds contributed under section 5 of the Act of June 22, 1936 (33 U.S.C. 701h), the Secretary [of the Army] shall provide written notice of the funds to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.”

#### § 701h-1. Contributions by States and political subdivisions for immediate use on authorized flood-control work; repayment

Whenever any State or political subdivision thereof shall offer to advance funds for a flood-control project duly adopted and authorized by law the Secretary of the Army may in his discretion, receive such funds and expend the same in the immediate prosecution of such work. The Secretary of the Army is authorized and directed to repay without interest, from appropriations which may be provided by Congress for flood-control work, the moneys so contributed and expended: *Provided, however*, That no repayment of funds which may be contributed for the purpose of meeting any conditions of local co-operation imposed by Congress, or under the authority of section 701h of this title, shall be made.

(Oct. 15, 1940, ch. 884, 54 Stat. 1176; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### § 701i. Elimination from protection of areas subject to evacuation

In any case where the construction cost of levees or flood walls included in any authorized project can be substantially reduced by the evacuation of a portion or all of the area proposed to be protected and by the elimination of that portion or all of the area from the protection to be afforded by the project, the Chief of Engineers may modify the plan of said project so as to eliminate said portion or all of the area: *Provided*, That a sum not substantially exceeding the amount thus saved in construction cost may be expended by the Chief of Engineers, or in his discretion may be transferred to any other appropriate Federal agency for expenditure, toward the evacuation of the locality eliminated from protection and the rehabilitation of the persons so evacuated: *And provided further*, That the Chief of Engineers may, if he so desires, enter into agreement with States, local agencies, or the individuals concerned for the accomplishment by them, of such evacuation and rehabilitation and for their reimbursement from said sum for expenditures actually incurred by them for this purpose.

(June 28, 1938, ch. 795, §3, 52 Stat. 1216.)

#### § 701j. Installation in dams of facilities for future development of hydroelectric power

Penstocks or other similar facilities adapted to possible future use in the development of hydroelectric power shall be installed in any dam herein authorized when approved by the Secretary of the Army upon the recommendation of the Chief of Engineers and of the Secretary of Energy.

(June 28, 1938, ch. 795, §4, 52 Stat. 1216; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; Pub. L. 95-91, title III, §301(b), Aug. 4, 1977, 91 Stat. 578.)

#### REFERENCES IN TEXT

Herein, referred to in text, means act June 28, 1938, ch. 795, 52 Stat. 1215, as amended, popularly known as the Flood Control Act of June 28, 1938, which to the extent classified to the Code enacted sections 701b, 701b-1, 701b-2, 701c-1, 701f-1, 701i, 701j, 702a-1½, 702a-11, and 706 of this title. For complete classification of this Act to the Code, see Tables.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### TRANSFER OF FUNCTIONS

“Secretary of Energy” substituted in text for “Federal Power Commission” on authority of Pub. L. 95-91, title III, §301(b), which is classified to section 7151(b) of Title 42, The Public Health and Welfare.

For transfer of functions of Federal Power Commission, with certain reservations, to chairman of such Commission, see Reorg. Plan No. 9 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out in the Appendix to Title 5, Government Organization and Employees.



## SIMILAR PROVISIONS

Similar provisions with reference to dams authorized in such acts were contained in acts Aug. 18, 1941, ch. 377, § 3, 55 Stat. 639; Dec. 22, 1944, ch. 665, § 10, 58 Stat. 891; July 24, 1946, ch. 596, § 10, 60 Stat. 643.

**§ 701k. Crediting reimbursements for lost, stolen, or damaged property**

Any amounts collected from any person, persons, or corporations as a reimbursement for lost, stolen, or damaged property, purchased in connection with river and harbor or flood control work prosecuted under the direction of the Secretary of the Army and the supervision of the Chief of Engineers, whether collected in cash or by deduction from amounts otherwise due such person, persons, or corporations, on and after June 20, 1938, shall be credited in each case to the appropriation that bore the cost of purchase, repair, or replacement of the lost, stolen, or damaged property.

(June 20, 1938, ch. 535, § 4, 52 Stat. 805; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

## CODIFICATION

Section is also set out as section 571 of this title.

## CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

**§§ 701l, 701l-1. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 650, 656**

Section 701l, act June 20, 1938, ch. 535, § 5, 52 Stat. 805, related to employment of retired civil service employees. See section 3323 of Title 5, Government Organization and Employees.

Section 701l-1, act May 17, 1950, ch. 188, title II, § 214, 64 Stat. 184, provided that section 947 of former Title 5, Executive Departments and Government Officers and Employees, should not be construed to prevent employment of additional personnel.

**§ 701m. Insufficient Congressional authorization; preparations for and modification of project**

In any case where the total authorization for a project heretofore or hereafter authorized by Congress is not sufficient to complete plans that may have been made the Chief of Engineers is authorized in his discretion to plan and make expenditures on preparations for the project, such as the purchase of lands, easements, and rights-of-way; readjustments of roads, railroads, and other utilities; removal of towns, cemeteries, and dwellings from reservoir sites; and the construction of foundations. The Chief of Engineers is also authorized in his discretion to modify the plan for any dam or other work heretofore or hereafter authorized so that such dam or work will be smaller than originally planned with a view to completing a useful improvement within an authorization: *Provided*, That the smaller structure shall be located on the chosen site so that it will be feasible at some future time to enlarge the work in order to permit the

full utilization of the site for all purposes of conservation such as flood control, navigation, reclamation, the development of hydroelectric power, and the abatement of pollution.

(Aug. 18, 1941, ch. 377, § 2, 55 Stat. 638.)

**§ 701n. Emergency response to natural disasters**

**(a) Emergency fund**

(1) There is authorized an emergency fund to be expended in preparation for emergency response to any natural disaster, in flood fighting and rescue operations, or in the repair or restoration of any flood control work threatened or destroyed by flood, including the strengthening, raising, extending, or other modification thereof as may be necessary in the discretion of the Chief of Engineers for the adequate functioning of the work for flood control and subject to the condition that the Chief of Engineers may include modifications to the structure or project, or in implementation of nonstructural alternatives to the repair or restoration of such flood control work if requested by the non-Federal sponsor; in the emergency protection of federally authorized hurricane or shore protection being threatened when in the discretion of the Chief of Engineers such protection is warranted to protect against imminent and substantial loss to life and property; in the repair and restoration of any federally authorized hurricane or shore protective structure or project damaged or destroyed by wind, wave, or water action of other than an ordinary nature to the design level of protection when, in the discretion of the Chief of Engineers, such repair and restoration is warranted for the adequate functioning of the structure or project for hurricane or shore protection, subject to the condition that the Chief of Engineers may include modifications to the structure or project to address major deficiencies or implement nonstructural alternatives to the repair or restoration of the structure if requested by the non-Federal sponsor. The emergency fund may also be expended for emergency dredging for restoration of authorized project depths for Federal navigable channels and waterways made necessary by flood, drought, earthquake, or other natural disasters. In any case in which the Chief of Engineers is otherwise performing work under this section in an area for which the Governor of the affected State has requested a determination that an emergency exists or a declaration that a major disaster exists under the Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.], the Chief of Engineers is further authorized to perform on public and private lands and waters for a period of ten days following the Governor's request any emergency work made necessary by such emergency or disaster which is essential for the preservation of life and property, including, but not limited to, channel clearance, emergency shore protection, clearance and removal of debris and wreckage endangering public health and safety, and temporary restoration of essential public facilities and services. The Chief of Engineers, in the exercise of his discretion, is further authorized to provide emergency supplies of clean water, on such terms as he determines to be advisable, to any

locality which he finds is confronted with a source of contaminated water causing or likely to cause a substantial threat to the public health and welfare of the inhabitants of the locality. The appropriation of such moneys for the initial establishment of this fund and for its replenishment on an annual basis, is authorized: *Provided*, That pending the appropriation of sums to such emergency fund, the Secretary of the Army may allot, from existing flood-control appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized, such appropriations to be reimbursed from the appropriation herein authorized when made. The Chief of Engineers is authorized, in the prosecution of work in connection with rescue operations, or in conducting other flood emergency work, to acquire on a rental basis such motor vehicles, including passenger cars and buses, as in his discretion are deemed necessary.

(2) In preparing a cost and benefit feasibility assessment for any emergency project described in paragraph (1), the Chief of Engineers shall consider the benefits to be gained by such project for the protection of—

- (A) residential establishments;
- (B) commercial establishments, including the protection of inventory; and
- (C) agricultural establishments, including the protection of crops.

(3) **NONSTRUCTURAL ALTERNATIVES DEFINED.**—In this subsection, the term “nonstructural alternatives” includes efforts to restore or protect natural resources, including streams, rivers, floodplains, wetlands, or coasts, if those efforts will reduce flood risk.

**(b) Emergency supplies of drinking water; drought; well construction and water transportation**

(1) The Secretary, upon a written request for assistance under this paragraph made by any farmer, rancher, or political subdivision within a distressed area, and after a determination by the Secretary that (A) as a result of the drought such farmer, rancher, or political subdivision has an inadequate supply of water, (B) an adequate supply of water can be made available to such farmer, rancher, or political subdivision through the construction of a well, and (C) as a result of the drought such well could not be constructed by a private business, the Secretary, subject to paragraph (3) of this subsection, may enter into an agreement with such farmer, rancher, or political subdivision for the construction of such well.

(2) The Secretary, upon a written request for assistance under this paragraph made by any farmer, rancher, or political subdivision within a distressed area, and after a determination by the Secretary that as a result of the drought such farmer, rancher, or political subdivision has an inadequate supply of water and water cannot be obtained by such farmer, rancher, or political subdivision, the Secretary may transport water to such farmer, rancher, or political subdivision by methods which include, but are not limited to, small-diameter emergency water lines and tank trucks, until such time as the Secretary determines that an adequate supply of

water is available to such farmer, rancher, or political subdivision.

(3)(A) Any agreement entered into by the Secretary pursuant to paragraph (1) of this subsection shall require the farmer, rancher, or political subdivision for whom the well is constructed to pay to the United States the reasonable cost of such construction, with interest, over such number of years, not to exceed thirty, as the Secretary deems appropriate. The rate of interest shall be that rate which the Secretary determines would apply if the amount to be repaid was a loan made pursuant to section 636(b)(2) of title 15.

(B) The Secretary shall not construct any well pursuant to this subsection unless the farmer, rancher, or political subdivision for whom the well is being constructed has obtained, prior to construction, all necessary State and local permits.

(4) The Federal share for the transportation of water pursuant to paragraph (2) of this subsection shall be 100 per centum.

(5) For purposes of this subsection—

(A) the term “construction” includes construction, reconstruction, or repair;

(B) the term “distressed area” means an area which the Secretary determines due to drought conditions has an inadequate water supply which is causing, or is likely to cause, a substantial threat to the health and welfare of the inhabitants of the area including threat of damage or loss of property;

(C) the term “political subdivision” means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over the water supply of such public body;

(D) the term “reasonable cost” means the lesser of (i) the cost to the Secretary of constructing a well pursuant to this subsection exclusive of the cost of transporting equipment used in the construction of wells, or (ii) the cost to a private business of constructing such well;

(E) the term “Secretary” means the Secretary of the Army, acting through the Chief of Engineers; and

(F) the term “State” means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

**(c) Levee owners manual**

**(1) In general**

Not later than 1 year after October 12, 1996, in accordance with chapter 5 of title 5, the Secretary of the Army shall prepare a manual describing the maintenance and upkeep responsibilities that the Corps of Engineers requires of a non-Federal interest in order for the non-Federal interest to receive Federal assistance under this section. The Secretary shall provide a copy of the manual at no cost to each non-Federal interest that is eligible to receive Federal assistance under this section.

**(2) Authorization of appropriations**

There is authorized to be appropriated \$1,000,000 to carry out this subsection.

**(3) Definitions**

In this subsection, the following definitions apply:

**(A) Maintenance and upkeep**

The term “maintenance and upkeep” means all maintenance and general upkeep of a levee performed on a regular and consistent basis that is not repair and rehabilitation.

**(B) Repair and rehabilitation**

The term “repair and rehabilitation”—

(i) means the repair or rebuilding of a levee or other flood control structure, after the structure has been damaged by a flood, to the level of protection provided by the structure before the flood; but

(ii) does not include—

(I) any improvement to the structure;

or

(II) repair or rebuilding described in clause (i) if, in the normal course of usage, the structure becomes structurally unsound and is no longer fit to provide the level of protection for which the structure was designed.

**(d) Increased level of protection**

In conducting repair or restoration work under subsection (a), at the request of the non-Federal sponsor, the Chief of Engineers may increase the level of protection above the level to which the system was designed, or, if the repair or restoration includes repair or restoration of a pumping station, increase the capacity of a pump, if—

(1) the Chief of Engineers determines the improvements are in the public interest, including consideration of whether—

(A) the authority under this section has been used more than once at the same location;

(B) there is an opportunity to decrease significantly the risk of loss of life and property damage; or

(C) there is an opportunity to decrease total life cycle rehabilitation costs for the project; and

(2) the non-Federal sponsor agrees to pay the difference between the cost of repair or restoration to the original design level or original capacity and the cost of achieving the higher level of protection or capacity sought by the non-Federal sponsor.

**(e) Notice**

The Secretary shall notify and consult with the non-Federal sponsor regarding the opportunity to request implementation of non-structural alternatives to the repair or restoration of a flood control work under subsection (a).

(Aug. 18, 1941, ch. 377, § 5, 55 Stat. 650; July 24, 1946, ch. 596, § 12, 60 Stat. 652; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; June 30, 1948, ch. 771, title II, § 206, 62 Stat. 1182; May 17, 1950, ch. 188, title II, § 210, 64 Stat. 183; June 28, 1955, ch. 194, 69 Stat. 186; Pub. L. 87-874, title II, § 206, Oct. 23, 1962, 76 Stat. 1194; Pub. L. 93-251, title I, § 82, Mar. 7, 1974, 88 Stat. 34; Pub. L. 95-51, § 2, June

20, 1977, 91 Stat. 233; Pub. L. 99-662, title IX, § 917, Nov. 17, 1986, 100 Stat. 4192; Pub. L. 100-45, § 9, May 27, 1987, 101 Stat. 323; Pub. L. 100-707, title I, § 109(m), Nov. 23, 1988, 102 Stat. 4709; Pub. L. 101-640, title III, § 302, Nov. 28, 1990, 104 Stat. 4633; Pub. L. 104-303, title II, § 202(e), (f), Oct. 12, 1996, 110 Stat. 3675; Pub. L. 113-121, title III, § 3029(a), June 10, 2014, 128 Stat. 1305; Pub. L. 114-322, title I, § 1176, Dec. 16, 2016, 130 Stat. 1673.)

## REFERENCES IN TEXT

The Disaster Relief and Emergency Assistance Act, referred to in subsec. (a)(1), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, known as the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

## AMENDMENTS

2016—Subsec. (a)(3). Pub. L. 114-322, § 1176(1), added par. (3).

Subsecs. (d), (e). Pub. L. 114-322, § 1176(2), added subsecs. (d) and (e).

2014—Subsec. (a)(1). Pub. L. 113-121 inserted “and subject to the condition that the Chief of Engineers may include modifications to the structure or project” after “work for flood control” and substituted “structure or project damaged or destroyed by wind, wave, or water action of other than an ordinary nature to the design level of protection when, in the discretion of the Chief of Engineers, such repair and restoration is warranted for the adequate functioning of the structure or project for hurricane or shore protection, subject to the condition that the Chief of Engineers may include modifications to the structure or project to address major deficiencies or implement nonstructural alternatives to the repair or restoration of the structure if requested by the non-Federal sponsor” for “structure damaged or destroyed by wind, wave, or water action of other than an ordinary nature when in the discretion of the Chief of Engineers such repair and restoration is warranted for the adequate functioning of the structure for hurricane or shore protection”.

1996—Subsec. (a)(1). Pub. L. 104-303, § 202(e), in first sentence, inserted “, or in implementation of non-structural alternatives to the repair or restoration of such flood control work if requested by the non-Federal sponsor”.

Subsec. (c). Pub. L. 104-303, § 202(f), added subsec. (c).

1990—Subsec. (a)(1). Pub. L. 101-640 substituted “preparation for emergency response to any natural disaster” for “flood emergency preparation” and inserted provision permitting the emergency fund to be used for emergency dredging for restoration of authorized depths for Federal navigable channels and waterways made necessary by flood, drought, earthquake, or other natural disasters.

1988—Subsec. (a)(1). Pub. L. 100-707 substituted “and Emergency Assistance Act” for “Act of 1974”.

1987—Subsec. (a). Pub. L. 100-45 designated existing provisions as par. (1) and added par. (2).

1986—Subsec. (a). Pub. L. 99-662 inserted provision relating to authority of the Chief of Engineers, when the Governor of an affected State requests a determination that an emergency or major disaster exists, to perform on public and private lands and waters, for a period of ten days following the Governor’s request, any emergency work made necessary by such emergency or disaster which is essential for the preservation of life and property, and substituted “clean water” for “clean drinking water” and “contaminated water” for “contaminated drinking water”.

1977—Pub. L. 95-51 designated existing provisions as subsec. (a) and added subsec. (b).

1974—Pub. L. 93-251 struck out limitation of emergency fund to \$15,000,000, provided for emergency sup-

plies of clean drinking water to localities confronted with source of contaminated drinking water, and substituted in proviso “of sums to such emergency fund” for “of said sum”.

1962—Pub. L. 87–874 authorized expenditures from the emergency fund for the protection of federally authorized hurricane or shore protection being threatened when such is warranted to protect against imminent and substantial loss to life and property, and for the repair and restoration of any such federally authorized hurricane or shore protective structure damaged or destroyed by wind or water action of an extraordinary nature when such is warranted for the adequate functioning of the structure for hurricane or shore protection.

1955—Act June 28, 1955, authorized expenditure for flood emergency preparation and eliminated the requirement of maintenance of flood control works threatened by flood.

1950—Act May 17, 1950, expanded scope of work considered under emergency repairs to flood-control structures, and substituted “\$15,000,000” for “\$2,000,000”.

1948—Act June 30, 1948, inserted provisions relating to the strengthening, extending, or modification of flood-control works.

1946—Act July 24, 1946, substituted “\$2,000,000” for “\$1,000,000”.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

#### SYSTEMWIDE IMPROVEMENT FRAMEWORK

Pub. L. 113–121, title III, § 3011, June 10, 2014, 128 Stat. 1284, provided that: “A levee system shall remain eligible for rehabilitation assistance under the authority provided by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n) as long as the levee system sponsor continues to make satisfactory progress, as determined by the Secretary [of the Army], on an approved system-wide improvement framework or letter of intent.”

#### VEGETATION MANAGEMENT GUIDELINES

Pub. L. 113–121, title III, § 3013, June 10, 2014, 128 Stat. 1284, provided that:

“(a) DEFINITION OF GUIDELINES.—In this section, the term ‘guidelines’ means the Corps of Engineers policy guidelines for management of vegetation on levees, including—

“(1) Engineering Technical Letter 1110–2–571 entitled ‘Guidelines for Landscape Planting and Vegetation Management at Levees, Floodwalls, Embankment Dams, and Appurtenant Structures’ and adopted April 10, 2009; and

“(2) the draft policy guidance letter entitled ‘Process for Requesting a Variance from Vegetation Standards for Levees and Floodwalls’ (77 Fed. Reg. 9637 (Feb. 17, 2012)).

“(b) REVIEW.—The Secretary [of the Army] shall carry out a comprehensive review of the guidelines in order to determine whether current Federal policy relating to levee vegetation is appropriate for all regions of the United States.

“(c) FACTORS.—

“(1) IN GENERAL.—In carrying out the review, the Secretary shall consider—

“(A) the varied interests and responsibilities in managing flood risks, including the need—

“(i) to provide the greatest benefits for public safety with limited resources; and

“(ii) to ensure that levee safety investments minimize environmental impacts and provide corresponding public safety benefits;

“(B) the levee safety benefits that can be provided by woody vegetation;

“(C) the preservation, protection, and enhancement of natural resources, including—

“(i) the benefit of vegetation on levees in providing habitat for species of concern, including endangered, threatened, and candidate species; and

“(ii) the impact of removing levee vegetation on compliance with other regulatory requirements;

“(D) protecting the rights of Indian tribes pursuant to treaties and statutes;

“(E) determining how vegetation impacts the performance of a levee or levee system during a storm or flood event;

“(F) the available science and the historical record regarding the link between vegetation on levees and flood risk;

“(G) the avoidance of actions requiring significant economic costs and environmental impacts; and

“(H) other factors relating to the factors described in subparagraphs (A) through (F) identified in public comments that the Secretary determines to be appropriate.

“(2) VARIANCE CONSIDERATIONS.—

“(A) IN GENERAL.—In carrying out the review, the Secretary shall specifically consider factors that promote and allow for consideration of variances from guidelines on a Statewide, tribal, regional, or watershed basis, including variances based on—

“(i) regional or watershed soil conditions;

“(ii) hydrologic factors;

“(iii) vegetation patterns and characteristics;

“(iv) environmental resources, including endangered, threatened, or candidate species and related regulatory requirements;

“(v) levee performance history, including historical information on original construction and subsequent operation and maintenance activities;

“(vi) any effects on water supply;

“(vii) any scientific evidence on the link between levee vegetation and levee safety;

“(viii) institutional considerations, including implementation challenges and conflicts with or violations of Federal or State environmental laws;

“(ix) the availability of limited funds for levee construction and rehabilitation;

“(x) the economic and environmental costs of removing woody vegetation on levees; and

“(xi) other relevant factors identified in public comments that the Secretary determines to be appropriate.

“(B) SCOPE.—The scope of a variance approved by the Secretary may include a complete exemption to guidelines, if appropriate.

“(d) COOPERATION AND CONSULTATION; RECOMMENDATIONS.—

“(1) IN GENERAL.—The Secretary shall carry out the review under this section in consultation with other applicable Federal agencies, representatives of State, regional, local, and tribal governments, appropriate nongovernmental organizations, and the public.

“(2) RECOMMENDATIONS.—

“(A) REGIONAL INTEGRATION TEAMS.—Corps of Engineers Regional Integration Teams, representing districts, divisions, and headquarters, in consultation with State and Federal resource agencies, and with participation by local agencies, shall submit to the Secretary any recommendations for vegetation management policies for levees that conform with Federal and State laws and other applicable requirements, including recommendations relating

to the review of guidelines under subsection (b) and the consideration of variances under subsection (c)(2).

“(B) STATE, TRIBAL, REGIONAL, AND LOCAL ENTITIES.—The Secretary shall consider and accept recommendations from any State, tribal, regional, or local entity for vegetation management policies for levees that conform with Federal and State laws and other applicable requirements, including recommendations relating to the review of guidelines under subsection (b) and the consideration of variances under subsection (c)(2).

“(e) INDEPENDENT CONSULTATION.—

“(1) IN GENERAL.—As part of the review, the Secretary shall solicit and consider the views of independent experts on the engineering, environmental, and institutional considerations underlying the guidelines, including the factors described in subsection (c) and any information obtained by the Secretary under subsection (d).

“(2) AVAILABILITY OF VIEWS.—The views of the independent experts obtained under paragraph (1) shall be—

“(A) made available to the public; and

“(B) included in supporting materials issued in connection with the revised guidelines required under subsection (f).

“(f) REVISION OF GUIDELINES.—

“(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [June 10, 2014], the Secretary shall—

“(A) revise the guidelines based on the results of the review, including—

“(i) recommendations received as part of the consultation described in subsection (d)(1); and

“(ii) the views received under subsection (e);

“(B) provide the public not less than 30 days to review and comment on draft guidelines before issuing final guidelines; and

“(C) submit to Congress and make publicly available a report that contains a summary of the activities of the Secretary and a description of the findings of the Secretary under this section.

“(2) CONTENT; INCORPORATION INTO MANUAL.—The revised guidelines shall—

“(A) provide a practical, flexible process for approving Statewide, tribal, regional, or watershed variances from the guidelines that—

“(i) reflect due consideration of the factors described in subsection (c); and

“(ii) incorporate State, tribal, and regional vegetation management guidelines for specific areas that—

“(I) are consistent with the guidelines; and

“(II) have been adopted through a formal public process; and

“(B) be incorporated into the manual proposed under section 5(c) of the Act of August 18, 1941 (33 U.S.C. 701n(c)).

“(3) FAILURE TO MEET DEADLINES.—If the Secretary fails to submit a report by the required deadline under this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a detailed explanation of—

“(A) why the deadline was missed;

“(B) solutions needed to meet the deadline; and

“(C) a projected date for submission of the report.

“(g) INTERIM ACTIONS.—

“(1) IN GENERAL.—Until the date on which revisions to the guidelines are adopted in accordance with subsection (f), the Secretary shall not require the removal of existing vegetation as a condition or requirement for any approval or funding of a project, or any other action, unless the specific vegetation has been demonstrated to present an unacceptable safety risk.

“(2) REVISIONS.—Beginning on the date on which the revisions to the guidelines are adopted in accord-

ance with subsection (f), the Secretary shall reconsider, on request of an affected entity, any previous action of the Corps of Engineers in which the outcome was affected by the former guidelines.”

Pub. L. 104-303, title II, § 202(g), Oct. 12, 1996, 110 Stat. 3676, provided that:

“(1) REVIEW.—The Secretary shall undertake a comprehensive review of the current policy guidelines on vegetation management for levees. The review shall examine current policies in view of the varied interests in providing flood control, preserving, protecting, and enhancing natural resources, protecting the rights of Native Americans pursuant to treaty and statute, and such other factors as the Secretary considers appropriate.

“(2) COOPERATION AND CONSULTATION.—The review under this section [subsection] shall be undertaken in cooperation with interested Federal agencies and in consultation with interested representatives of State and local governments and the public.

“(3) REVISION OF GUIDELINES.—Based upon the results of the review, the Secretary shall revise, not later than 270 days after the date of the enactment of this Act [Oct. 12, 1996], the policy guidelines so as to provide a coherent and coordinated policy for vegetation management for levees. Such revised guidelines shall address regional variations in levee management and resource needs and shall be incorporated in the manual proposed under section 5(c) of such Act of August 18, 1941 (33 U.S.C. 701n[(c)]).”

## § 701n-1. Biennial report to Congress

### (A) In general

Not later than 2 years after June 10, 2014, and every 2 years thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report detailing the amounts expended in the previous 5 fiscal years to carry out Corps of Engineers projects under section 701n of this title.

### (B) Inclusions

A report under subparagraph (A) shall, at a minimum, include a description of—

(i) each structure, feature, or project for which amounts are expended, including the type of structure, feature, or project and cost of the work; and

(ii) how the Secretary has repaired, restored, replaced, or modified each structure, feature, or project or intends to restore the structure, feature, or project to the design level of protection for the structure, feature, or project.

(Pub. L. 113-121, title III, § 3029(c)(1), June 10, 2014, 128 Stat. 1307.)

### “SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113-121, set out as a note under section 2201 of this title.

## § 701o. Omitted

### CODIFICATION

Section, act June 30, 1948, ch. 771, title II, § 202, 62 Stat. 1175, related to conditions precedent on unauthorized projects and modifications. Similar provisions were contained in act July 24, 1946, ch. 596, § 2, 60 Stat. 641. See section 701b-8 of this title.

## § 701p. Railroad bridge alterations at Federal expense

On and after July 24, 1946, for authorized flood protection projects which include alterations of

railroad bridges the Chief of Engineers is authorized to include at Federal expense the necessary alterations of railroad bridges and approaches in connection therewith.

(July 24, 1946, ch. 596, § 3, 60 Stat. 642.)

**§ 701q. Repair and protection of highways, railroads, and utilities damaged by operation of dams or reservoir**

Whenever the Chief of Engineers shall find that any highway, railway, or utility has been or is being damaged or destroyed by reason of the operation of any dam or reservoir project under the control of the Department of the Army, he may utilize any funds available for the construction, maintenance, or operation of the project involved for the repair, relocation, restoration, or protection of such highway, railway, or utility: *Provided*, That this section shall not apply to highways, railways, and utilities previously provided for by the Department of the Army, unless the Chief of Engineers determines that the actual damage has or will exceed that for which provision had previously been made.

(July 24, 1946, ch. 596, § 9, 60 Stat. 643; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

**§ 701r. Protection of highways, bridge approaches, public works, and nonprofit public services**

The Secretary of the Army is authorized to allot from any appropriations heretofore or hereafter made for flood control, not to exceed \$20,000,000 per year, for the construction, repair, restoration, and modification of emergency streambank and shoreline protection works to prevent damage to highways, bridge approaches, and public works, churches, hospitals, schools, and other nonprofit public services, when in the opinion of the Chief of Engineers such work is advisable: *Provided*, That not more than \$5,000,000 shall be allotted for this purpose at any single locality from the appropriations for any one fiscal year.

(July 24, 1946, ch. 596, § 14, 60 Stat. 653; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 93-251, title I, § 27, Mar. 7, 1974, 88 Stat. 20; Pub. L. 99-662, title IX, § 915(c), Nov. 17, 1986, 100 Stat. 4191; Pub. L. 104-303, title II, § 219, Oct. 12, 1996, 110 Stat. 3696; Pub. L. 110-114, title II, § 2023, Nov. 8, 2007, 121 Stat. 1078; Pub. L. 113-121, title I, § 1030(i), June 10, 2014, 128 Stat. 1232.)

AMENDMENTS

2014—Pub. L. 113-121 substituted "\$20,000,000" for "\$15,000,000" and "\$5,000,000" for "\$1,500,000".

2007—Pub. L. 110-114 substituted "\$1,500,000" for "\$1,000,000".

1996—Pub. L. 104-303 substituted "\$15,000,000" for "\$12,500,000" and "\$1,000,000" for "\$500,000".

1986—Pub. L. 99-662 substituted "\$12,500,000" for "\$10,000,000" and "\$500,000" for "\$250,000".

1974—Pub. L. 93-251 substituted "\$10,000,000" for "\$1,000,000", "\$250,000" for "\$50,000", and "construction, repair, restoration, and modification of emergency streambank and shoreline protection works to prevent flood damages to highways, bridge approaches, and public works, churches, hospitals, schools, and other nonprofit public services," for "construction of emergency bank-protection works to prevent flood damages to highways, bridge approaches, and public works,".

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-662 not applicable to any project under contract for construction on Nov. 17, 1986, see section 915(i) of Pub. L. 99-662, set out as a note under section 426g of this title.

**§ 701r-1. Utilization of public roads**

**(a) Definitions**

When used in this section—

(1) The term "Agency" means the Corps of Engineers, United States Army or the Bureau of Reclamation, United States Department of the Interior, whichever has jurisdiction over the project concerned.

(2) The term "head of the Agency concerned" means the Chief of Engineers or the Commissioner, Bureau of Reclamation, or their respective designees.

(3) The term "water resources projects to be constructed in the future" includes all projects not yet actually under construction, and, to the extent of work remaining to be completed, includes projects presently under construction where road relocations or identifiable components thereof are not complete as of the date of this section.

(4) The term "time of the taking" is the date of the relocation agreement, the date of the filing of a condemnation proceeding, or a date agreed upon between the parties as the date of taking.

**(b) Improvement, reconstruction, and maintenance**

Whenever, in connection with the construction of any authorized flood control, navigation, irrigation, or multiple purpose project for the development of water resources, the head of the Agency concerned determines it to be in the public interest to utilize existing public roads as a means of providing access to such projects during construction, such Agency may improve, reconstruct, and maintain such roads and may contract with the local authority having jurisdiction over the roads to accomplish the necessary work. The accomplishment of such work of improvement may be carried out with or without obtaining any interest in the land on which the road is located in accordance with

mutual agreement between the parties: *Provided*, (1) That the head of the Agency concerned determines that such work would result in a saving in Federal cost as opposed to the cost of providing a new access road at Federal expense, (2) that, at the completion of construction, the head of the Agency concerned will, if necessary, restore the road to at least as good condition as prior to the beginning of utilization for access during construction, and (3) that, at the completion of construction, the responsibility of the Agency for improvement, reconstruction, and maintenance shall cease.

**(c) Replacement roads; construction to higher standards**

For water resources projects to be constructed in the future, when the taking by the Federal Government of an existing public road necessitates replacement, the substitute provided will, as nearly as practicable, serve in the same manner and reasonably as well as the existing road. The head of the agency concerned is authorized to construct such substitute roads to the design standards which the State or owning political division would use in constructing a new road under similar conditions of geography and under similar traffic loads (present and projected). In any case where a State or political subdivision thereof requests that such a substitute road be constructed to a higher standard than that provided for in the preceding provisions of this subsection, and pays, prior to commencement of such construction, the additional costs involved due to such higher standard, such agency head is authorized to construct such road to such higher standard. Federal costs under the provisions of this subsection shall be part of the nonreimbursable project costs.

(Pub. L. 86-645, title II, §207, July 14, 1960, 74 Stat. 500; Pub. L. 87-874, title II, §208, Oct. 23, 1962, 76 Stat. 1196; Pub. L. 93-251, title I, §13, Mar. 7, 1974, 88 Stat. 17.)

AMENDMENTS

1974—Subsec. (c). Pub. L. 93-251 lower cased “agency” in two places, and substituted “to the design standards which the State or owning political division would use in constructing a new road under similar conditions of geography and under similar traffic loads (present and projected).” for “to design standards comparable to those of the State, or, where applicable State standards do not exist, those of the owning political division in which the road is located, for roads of the same classification as the road being replaced. The traffic existing at the time of the taking shall be used in the determination of the classification.”

1962—Subsec. (a). Pub. L. 87-874 added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 87-874 redesignated former subsec. (a) as (b), and among other changes, inserted “irrigation,” before “or multiple-purpose project” and substituted references to head of the Agency concerned, for references to Chief of Engineers. Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 87-874 redesignated former subsec. (b) as (c), substituted construction authority to head of the agency concerned for authority to Chief of Engineers, provided that where State standards do not exist, those of the owning political division in which the road is located shall be used, that where a State or political subdivision requests a substitute road to be constructed to a higher standard than provided in this subsection, and pays the additional costs, the Agency

head is authorized to so construct the road, and that the Federal costs under this subsection shall be part of the nonreimbursable costs.

**§ 701s. Small flood control projects; appropriations; amount limitation for single locality; conditions**

The Secretary of the Army is authorized to allot from any appropriations heretofore or hereafter made for flood control, not to exceed \$55,000,000 for any one fiscal year, for the implementation of small structural and nonstructural projects for flood control and related purposes not specifically authorized by Congress, which come within the provisions of section 701a of this title, when in the opinion of the Chief of Engineers such work is advisable. The amount allotted for a project shall be sufficient to complete Federal participation in the project. Not more than \$10,000,000 shall be allotted under this section for a project at any single locality. The provisions of local cooperation specified in section 701c of this title shall apply. The work shall be complete in itself and not commit the United States to any additional improvement to insure its successful operation, except as may result from the normal procedure applying to projects authorized after submission of preliminary examination and survey reports.

(June 30, 1948, ch. 771, title II, §205, 62 Stat. 1182; May 17, 1950, ch. 188, title II, §212, 64 Stat. 183; July 11, 1956, ch. 558, 70 Stat. 522; Pub. L. 87-874, title II, §205, Oct. 23, 1962, 76 Stat. 1194; Pub. L. 93-251, title I, §61, Mar. 7, 1974, 88 Stat. 29; Pub. L. 94-587, §133(b), Oct. 22, 1976, 90 Stat. 2928; Pub. L. 97-140, §2(a), Dec. 29, 1981, 95 Stat. 1717; Pub. L. 99-662, title IX, §915(a), Nov. 17, 1986, 100 Stat. 4191; Pub. L. 106-53, title II, §201, Aug. 17, 1999, 113 Stat. 285; Pub. L. 106-541, title II, §218, Dec. 11, 2000, 114 Stat. 2596; Pub. L. 110-114, title II, §2021, Nov. 8, 2007, 121 Stat. 1078; Pub. L. 113-121, title I, §1030(e), June 10, 2014, 128 Stat. 1232.)

AMENDMENTS

2014—Pub. L. 113-121 substituted “\$10,000,000” for “\$7,000,000” in third sentence.

2007—Pub. L. 110-114 substituted “\$55,000,000” for “\$50,000,000” in first sentence.

2000—Pub. L. 106-541 substituted “\$50,000,000” for “\$40,000,000” in first sentence.

1999—Pub. L. 106-53, in first sentence, substituted “implementation of small structural and nonstructural projects” for “construction of small projects” and, in third sentence, substituted “\$7,000,000” for “\$5,000,000”.

1986—Pub. L. 99-662 substituted “\$40,000,000” for “\$30,000,000” and “\$5,000,000” for “\$4,000,000”.

1981—Pub. L. 97-140 substituted “Not more than \$4,000,000 shall be allotted under this section for a project at any single locality” for “Not more than \$2,000,000 shall be allotted under this section for a project in any single locality, except that not more than \$3,000,000 shall be allotted under this section for a project at a single locality if such project protects an area which has been declared to be a major disaster area pursuant to the Disaster Relief Act of 1966 or the Disaster Relief Act of 1970 in the five-year period immediately preceding the date the Chief of Engineers deems such work advisable”.

1976—Pub. L. 94-587 increased limitation on allotment for a project at a single locality from \$1,000,000 to \$2,000,000 and for such a project protecting a major disaster area from \$2,000,000 to \$3,000,000.

1974—Pub. L. 93-251, in revising provisions, increased fiscal year allotment to \$30,000,000 from \$25,000,000 and

required allotment of \$2,000,000 for a project at a single locality if such locality protects an area declared to be a major-disaster area pursuant to Disaster Relief Act of 1966 or Disaster Relief Act of 1970 in five-year period immediately preceding the date the Chief of Engineers deems such work advisable.

1962—Pub. L. 87-874 substituted “\$25,000,000” for “\$10,000,000”, “projects for flood control and related purposes” for “flood control projects”, and provisions limiting the allotment for a single project to \$1,000,000 and providing that such allotment shall be sufficient to complete Federal participation, for provisions limiting the allotment for any single project to \$400,000 from the appropriations for any fiscal year.

1956—Act July 11, 1956, substituted “\$10,000,000” for “\$3,000,000”, struck out “and not within areas intended to be protected by projects so authorized” before “which come within the provisions of section 701a of this title”, and substituted “\$400,000” for “\$150,000”.

1950—Act May 17, 1950, substituted “\$3,000,000” for “\$2,000,000” and “\$150,000” for “\$100,000”.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-662 not applicable to any project under contract for construction on Nov. 17, 1986, see section 915(i) of Pub. L. 99-662, set out as a note under section 426g of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-140, §2(b), Dec. 29, 1981, 95 Stat. 1717, provided that: “The amendment made by this section [amending this section] shall not apply to any project under contract for construction on the date of enactment of this Act [Dec. 29, 1981].”

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-587 not applicable to any project under contract for construction on Oct. 22, 1976, see section 133(c) of Pub. L. 94-587, set out as a note under section 577 of this title.

#### ICE JAM PREVENTION AND MITIGATION

Pub. L. 114-322, title I, §1150, Dec. 16, 2016, 130 Stat. 1661, provided that:

“(a) IN GENERAL.—The Secretary [of the Army] may carry out projects under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), including planning, design, construction, and monitoring of structural and nonstructural technologies and measures, for preventing and mitigating flood damages associated with ice jams.

“(b) INCLUSION.—The projects described in subsection (a) may include the development and demonstration of cost-effective technologies and designs developed in consultation with—

“(1) the Cold Regions Research and Engineering Laboratory of the Corps of Engineers;

“(2) universities;

“(3) Federal, State, and local agencies; and

“(4) private organizations.

“(c) PILOT PROGRAM.—

“(1) IN GENERAL.—During fiscal years 2017 through 2022, the Secretary shall identify and carry out not fewer than 10 projects under this section to demonstrate technologies and designs developed in accordance with this section.

“(2) PROJECT SELECTION.—The Secretary shall ensure that the projects are selected from all cold regions of the United States, including the Upper Missouri River Basin and the Northeast.”

#### § 701t. Emergency fund for flood damage; amount; commitments to be fulfilled by local interests

The sum of \$25,000,000 is authorized to be appropriated as an emergency fund to be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engi-

neers for the repair, restoration, and strengthening of levees and other flood control works which have been threatened or destroyed by recent floods, or which may be threatened or destroyed by later floods, including the raising, extending, or other modification of such works as may be necessary in the discretion of the Chief of Engineers for the adequate functioning of the works for flood control: *Provided*, That local interests shall provide without cost to the United States all lands, easements, and rights of way necessary for the work and shall maintain and operate all the works after completion in a manner satisfactory to the Chief of Engineers: *Provided further*, That pending the appropriation of said sum, the Secretary of the Army may allot from existing flood-control appropriations such sums as may be necessary for the immediate prosecution of the work authorized by this section, such appropriations to be reimbursed from said emergency fund when appropriated: *And provided further*, That funds allotted under this authority shall not be diverted from the unobligated funds from the appropriation “Flood control, general”, made available in War Department Civil Functions Appropriation Acts for specific purposes.

(June 30, 1948, ch. 771, title II, §208, 62 Stat. 1182.)

#### § 701u. International engineering or scientific conferences; attendance

The Secretary of the Army is authorized to allot from any appropriations heretofore or hereafter made for flood control or rivers and harbors, funds for payment of expenses of representatives of the Corps of Engineers engaged on flood control and river and harbor work to international engineering or scientific conferences to be held outside the United States: *Provided*, That not more than ten representatives of the Corps of Engineers shall attend any one conference.

(May 17, 1950, ch. 188, title II, §211, 64 Stat. 183; Pub. L. 104-303, title II, §222, Oct. 12, 1996, 110 Stat. 3697.)

#### AMENDMENTS

1996—Pub. L. 104-303 substituted “outside the United States” for “outside the continental limits of the United States” and struck out before period at end “: *And provided further*, That not more than \$25,000 shall be allotted during any one fiscal year for this purpose”.

#### § 702. Mississippi River

[AUTHORIZATION OF FLOOD-CONTROL WORK.] For controlling the floods of the Mississippi River and continuing its improvement from the Head of the Passes to the mouth of the Ohio River the Secretary of the Army is empowered, authorized, and directed to carry on continuously, by hired labor or otherwise, the plans of the Mississippi River Commission, prior to March 3, 1923, or thereafter adopted, to be paid for as appropriations may from time to time be made by law.

[ALLOTMENTS FOR IMPROVEMENT OF WATER-COURSES CONNECTED WITH MISSISSIPPI RIVER.] The watercourses connected with the Mississippi River to such extent as may be necessary to ex-



clude the flood waters from the upper limits of any delta basin, together with the Ohio River from its mouth to the mouth of the Cache River, may, in the discretion of said commission, receive allotments for improvements under way March 1, 1917, or thereafter to be undertaken.

[MAINTENANCE OF LEVEES CONSTRUCTED FOR FLOOD CONTROL.] Upon the completion of any levee constructed for flood control under authority of this section, said levee shall be turned over to the levee district protected thereby for maintenance thereafter; but for all other purposes the United States shall retain such control over the same as it may have the right to exercise upon such completion.

(Mar. 1, 1917, ch. 144, § 1, 39 Stat. 948; Mar. 4, 1923, ch. 277, 42 Stat. 1505; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

#### CODIFICATION

Last clause of first paragraph was originally limited to appropriations made for a period of six years beginning July 1, 1924.

The portion of the first paragraph providing “and a sum not to exceed \$10,000,000 annually is hereby authorized to be appropriated for that purpose, for a period of six years beginning July 1, 1924” together with the fourth paragraph, relating to expenditures for improvements between Head of Passes and Rock Island, were from act Mar. 4, 1923, which superseded provisions on the same subjects contained in act Mar. 1, 1917, from which the rest of the section was derived, and were omitted as executed.

Sections 2 and 3 of act Mar. 1, 1917, are classified to sections 703 and 701, respectively, of this title, and section 4 of act Mar. 1, 1917, amended section 643 of this title.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### § 702a. Adoption of 1927 project; execution; creation of board; scope of authority; appropriation

The project for the flood control of the Mississippi River in its alluvial valley and for its improvement from the Head of Passes to Cape Girardeau, Missouri, in accordance with the engineering plan set forth and recommended in the report submitted by the Chief of Engineers to the Secretary of the Army dated December 1, 1927, and printed in House Document Numbered 90, Seventieth Congress, first session, is adopted and authorized to be prosecuted under the direction of the Secretary of the Army and the supervision of the Chief of Engineers: *Provided*, That a board to consist of the Chief of Engineers, the president of the Mississippi River Commission, and a civil engineer chosen from civil life to be appointed by the President, by and with the advice and consent of the Senate, whose compensation shall be fixed by the President and be paid out of the appropriations made to carry on this project, is created; and such board is authorized and directed to consider the engineering dif-

ferences between the adopted project and the plans recommended by the Mississippi River Commission in its special report dated November 28, 1927, and after such study and such further surveys as may be necessary, to recommend to the President such action as it may deem necessary to be taken in respect to such engineering differences and the decision of the President upon all recommendations or questions submitted to him by such board shall be followed in carrying out the project herein adopted. The board shall not have any power or authority in respect to such project except as hereinbefore provided. Such project and the changes therein, if any, shall be executed in accordance with the provisions of section 702h of this title. Such surveys shall be made between Baton Rouge, Louisiana, and Cape Girardeau, Missouri, as the board may deem necessary to enable it to ascertain and determine the best method of securing flood relief in addition to levees, before any flood-control works other than levees and revetments are undertaken on that portion of the river: *Provided*, That all diversion works and outlets constructed under the provisions of sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m and 704 of this title shall be built in a manner and of a character which will fully and amply protect the adjacent lands: *Provided further*, That pending completion of any floodway, spillway, or diversion channel, the areas within the same shall be given the same degree of protection as is afforded by levees on the west side of the river contiguous to the levee at the head of said floodway, but nothing herein shall prevent, postpone, delay, or in anywise interfere with the execution of that part of the project on the east side of the river, including raising, strengthening, and enlarging the levees on the east side of the river. The sum of \$325,000,000 is authorized to be appropriated for this purpose.

All unexpended balances of appropriations prior to May 15, 1928, made for prosecuting work of flood control on the Mississippi River in accordance with the provisions of section 702 of this title, are made available for expenditure under the provisions of sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, and 702m of this title.

(May 15, 1928, ch. 569, § 1, 45 Stat. 534; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

#### REFERENCES IN TEXT

Herein, referred to in text, means act May 15, 1928, ch. 569, 45 Stat. 534, as amended, which enacted sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title. For complete classification of this Act to the Code, see Tables.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### ABANDONMENT AND REPEAL OF PROJECTS

For abandonment of Boeuf Floodway and Eudora Floodway as well as Northward Extension and back

protection levee extending from head of Eudora Floodway north to Arkansas River and repeal of provisions relating to prosecution of work, see section 702a-12 of this title.

**§ 702a-1. Modification of project of 1927; adoption**

The project for the control of floods of the Mississippi River and its tributaries, adopted by section 702a of this title, is modified in accordance with the recommendations of section 43 of the report submitted by the Chief of Engineers to the Chairman of the Committee on Flood Control, dated February 12, 1935, and printed in House Committee on Flood Control Document Numbered 1, Seventy-fourth Congress, first session, as, in sections 642a, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title, further modified and amended; and as so modified is adopted and authorized and directed to be prosecuted under the direction of the Secretary of the Army and the supervision of the Chief of Engineers.

(June 15, 1936, ch. 548, § 1, 49 Stat. 1508; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

**PRIOR PROVISIONS**

A prior section 702a-1½, act June 28, 1938, ch. 795, § 4, 52 Stat. 1220, which related to further modification of 1927 project, was transferred to section 702a-1a of this title.

A prior section 702a-1¾, act Aug. 18, 1941, ch. 377, § 3, 55 Stat. 642, which related to further modification and adoption of Lower Mississippi River flood control project, was transferred to section 702a-1b of this title.

**CHANGE OF NAME**

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

**§ 702a-1a. Further modification of 1927 project; adoption; appropriation**

In accordance with the recommendations of the Chief of Engineers, as set forth in his report of April 6, 1937, and published as Flood Control Committee Document Numbered 1, Seventy-fifth Congress, first session, paragraph 38(b), except subparagraph (1), the project for flood control of the Lower Mississippi River adopted by sections 642a, 702a, 702a-1, 702a-2 to 702d, 702e to 702h, 702i to 702m, and 704 of this title, is modified and, as modified, is adopted, and there is authorized to be appropriated in addition to the sums previously authorized \$40,000,000 to be applied for the purposes set forth in said document covering the said recommendations, with the exceptions mentioned, subject to the provisions made in section 702a-11 of this title.

(June 28, 1938, ch. 795, § 4, 52 Stat. 1220.)

**CODIFICATION**

Section was formerly classified to section 702a-1½ of this title.

**§ 702a-1b. Further modification; adoption**

The project for flood control of the Lower Mississippi River adopted by sections 642a, 702a to

702a-1a, 702a-2 to 702d, and 702e to 702h, 702i to 702m, and 704 of this title is modified and, as modified, is authorized and adopted.

(Aug. 18, 1941, ch. 377, § 3, 55 Stat. 642.)

**CODIFICATION**

Section was formerly classified to section 702a-1¾ of this title.

**§ 702a-2. Abandonment of Boeuf Floodway**

The Boeuf Floodway, authorized by the provisions adopted in section 702a of this title, shall be abandoned as soon as the Eudora Floodway, provided for in Flood Control Committee Document Numbered 1, Seventy-fourth Congress, first session, is in operative condition and the back protection levee recommended in said document, extending north from the head of the Eudora Floodway, shall have been constructed.

(June 15, 1936, ch. 548, § 2, 49 Stat. 1509.)

**ABANDONMENT AND REPEAL OF PROJECTS**

For abandonment of Boeuf Floodway and Eudora Floodway as well as Northward Extension and back protection levee extending from head of Eudora Floodway north to Arkansas River and repeal of provisions relating to prosecution of work, see section 702a-12 of this title.

**§ 702a-3. Levees; raising and enlarging**

The levees along the Mississippi River from the head of the Morganza Floodway to the head of the Atchafalaya River and down the east bank of the Atchafalaya River to intersection with the west protection levee of said Morganza Floodway shall be raised and enlarged to 1928 grade and section.

(June 15, 1936, ch. 548, § 3, 49 Stat. 1509.)

**§ 702a-4. Fuse-plug levees**

After the Eudora Floodway shall have been constructed and is ready for operation, the fuse-plug levees now at the head of the Boeuf and Tensas Basins shall be constructed to the 1914 grade and the 1928 section. The fuse-plug levees at the head of the Atchafalaya Basin on the west side shall be constructed to the 1914 grade and the 1928 section. The fuse-plug levees at the head of the Atchafalaya Basin on the east side of the Atchafalaya River shall be constructed to the 1914 grade and 1928 section, and, after the Morganza Floodway has been completed, shall be raised to the 1928 grade as provided in section 702a-3 of this title. Thereafter those stretches of said levees which are left as fuse-plug levees shall be reconstructed and maintained as herein provided, subject to the provisions of section 702a-3 of this title. Any funds appropriated under authority of sections 702g-1 and 702k-1 of this title may be expended for this purpose.

(June 15, 1936, ch. 548, § 10, 49 Stat. 1511.)

**REFERENCES IN TEXT**

Herein, referred to in text, means act June 15, 1936, ch. 548, 49 Stat. 1508, as amended, which enacted sections 642a, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title. For complete classification of this Act to the Code, see Tables.

**§ 702a-5. Back levee north of Eudora Floodway**

The back-protection levee north of the Eudora Floodway shall be constructed to the same

grade and section as the levees opposite on the east side of the Mississippi River: *Provided*, That this levee extending from the head of the Eudora Floodway north to the Arkansas River shall be so located as to afford adequate space for the passage of flood waters without endangering the levees opposite on the east side of the river and shall be constructed contemporaneously with the construction of the Eudora Floodway; except that, until the Eudora Floodway is in operative condition, there shall be left in this back levee north of the head of the Eudora Floodway openings which shall be sufficient, in the discretion of the Chief of Engineers, to permit the passage of all flood waters to be reasonably contemplated in the event of any break in the river-side fuse-plug levee prior to the time the Eudora Floodway shall be in operative condition.

(June 15, 1936, ch. 548, § 11, 49 Stat. 1511.)

#### ABANDONMENT AND REPEAL OF PROJECTS

For abandonment of Boeuf Floodway and Eudora Floodway as well as Northward Extension and back protection levee extending from head of Eudora Floodway north to Arkansas River and repeal of provisions relating to prosecution of work, see section 702a-12 of this title.

#### § 702a-6. Drainage necessitated by floodway levees

The United States shall provide the drainage made necessary by the construction of floodway levees included in the modified project.

(June 15, 1936, ch. 548, § 6, 49 Stat. 1510.)

#### § 702a-7. Railroad and highway crossings over floodways

The United States shall construct, at its own cost, one railroad and one highway crossing over the Eudora Floodway and not to exceed three railway and two highway crossings over the Morganza Floodway, and not to exceed one railway crossing (together with suitable physical connections therewith) and one highway crossing over the floodway west of the Atchafalaya River provided for in the modified project: *Provided*, That equitable agreements can be made with the railroad and highway authorities concerned and that the appropriate railroad or highway agencies agree to accept and maintain and operate these crossings without cost to the United States: *Provided further*, That the railroads crossing the Morganza and West Atchafalaya Floodways agree in consideration for the crossings constructed to waive all claims against the Government for any damages that may occur by reason of overflows in the Morganza and West Atchafalaya Floodways: *And provided further*, That other railway and highway damages shall be adjusted as provided for in section 702a-10 of this title.

(June 15, 1936, ch. 548, § 7, 49 Stat. 1510.)

#### § 702a-8. Additional roads; construction by United States

In addition to the construction by the United States of roads in connection with floodways as heretofore provided, the Federal Government may, in the discretion of the Chief of Engineers,

and within the limits of available funds, construct additional roads to afford access to those portions of the levee lines not otherwise accessible.

(June 15, 1936, ch. 548, § 8, 49 Stat. 1510.)

#### § 702a-9. Lands, easements, and rights-of-way; acquisition by local authorities; reimbursement; protection of United States from liability for damages

No money appropriated under sections 702g-1 and 702k-1 of this title shall be expended on the construction of any reservoir project herein authorized until States, political subdivisions thereof, or other responsible local agencies have given assurances satisfactory to the Secretary of the Army that they will (a) provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction of the project, except as otherwise provided herein; (b) hold and save the United States free from damages due to the construction works; (c) maintain and operate all the works after completion in accordance with regulations prescribed by the Secretary of the Army: *And provided*, That the construction of any dam authorized herein may be undertaken without delay when the dam site has been acquired and the assurances prescribed herein have been furnished, without awaiting the acquisition of the easements and rights-of-way required for the reservoir area: *And provided further*, That whenever expenditures for lands, easements, and rights-of-way by States, political subdivisions thereof, or responsible local agencies for any individual project or useful part thereof shall have exceeded the present estimated construction cost therefor, the local agency concerned may be reimbursed one-half of its excess expenditures over said estimated construction cost: *And provided further*, That when benefits of any project or useful part thereof accrue to lands and property outside of the State in which said project or part thereof is located, the Secretary of the Army may acquire the necessary lands, easements, and rights-of-way for said project or part thereof after he has received from the States, political subdivisions thereof, or responsible local agencies benefited the present estimated cost of said lands, easements, and rights-of-way, less one-half the amount by which the estimated cost of these lands, easements, and rights-of-way exceeds the estimated construction cost corresponding thereto: *And provided further*, That the Secretary of the Army shall determine the proportion of the present estimated cost of said lands, easements, and rights-of-way that each State, political subdivision thereof, or responsible local agency should contribute in consideration for the benefits to be received by such agencies: *And provided further*, That whenever not less than 75 per centum of the benefits as estimated by the Secretary of the Army of any project or useful part thereof accrue to lands and property outside of the State in which said project or part thereof is located, provision (c) of this section shall not apply thereto; nothing herein shall impair or abridge the powers now existing in the Department of the Army with respect to navigable streams: *And provided further*,

That nothing herein shall be construed to interfere with the completion of any reservoir or flood control work authorized by the Congress and under way on June 15, 1936.

(June 15, 1936, ch. 548, §8a, 49 Stat. 1510; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

#### REFERENCES IN TEXT

Herein, referred to in text, means act June 15, 1936, ch. 548, 49 Stat. 1508, as amended, which enacted sections 642a, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title. For complete classification of this Act to the Code, see Tables.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

### **§ 702a-10. Flowage rights and rights-of-way; reimbursement of local authorities; highway crossings; use of properties for national forests or wildlife refuges**

In order to facilitate the United States in the acquisition of flowage rights and rights-of-way for levee foundations, the Secretary of the Army is authorized to enter into agreements with the States or with local levee districts, boards, commissions, or other agencies for the acquisition and transfer to the United States of such flowage rights and levee rights-of-way, and for the reimbursement of such States or local levee districts, boards, commissions, or other agencies, for the cost thereof at prices previously agreed upon between the Secretary of the Army and the governing authority of such agencies, within the maximum limitations hereinafter prescribed: *Provided*, That no money appropriated under the authority of sections 702g-1 and 702k-1 of this title shall be expended upon the construction of the Eudora Floodway, the Morganza Floodway, the back protection levee extending north from the Eudora Floodway, or the levees extending from the head of the Morganza Floodway to the head of and down the east bank of the Atchafalaya River to the intersection of said Morganza Floodway until 75 per centum of the value of the flowage rights and rights-of-way for levee foundations, as estimated by the Chief of Engineers, shall have been acquired or options or assurances satisfactory to the Chief of Engineers shall have been obtained for the Eudora Floodway, the Morganza Floodway, and the area lying between said back protection levee and the present front line levees: *Provided further*, That easements required in said areas in connection with roads and other public utilities owned by States or political subdivisions thereof shall be provided without cost to the United States upon the condition, that the United States shall provide suitable crossings, including surfacing of like character, over floodway guide-line levees in said areas for all improved roads now constituting a part of the State highway system, and shall repair all damage done to said highways within the said floodways by the actual

use of such floodways for diversion: *Provided further*, That when such portion of said rights as to all of said areas shall have been acquired or obtained and when said easements required in connection with roads and other public utilities owned by States or political subdivisions thereof have been provided as hereinabove set forth, construction of said flood-control works in said areas shall be undertaken according to the engineering recommendations of the Report of the Chief of Engineers dated February 12, 1935 (House Committee on Flood Control Document Numbered 1, Seventy-fourth Congress, first session), and the Secretary of the Army shall cause proceedings to be instituted for the condemnation of the remainder of said rights and easements, as are needed and cannot be secured by agreement, in accordance with section 702d of this title: *Provided further*, That in no event and under no circumstances shall any of the additional money appropriated under the authority of sections 702g-1 and 702k-1 be expended for the acquisition of said 75 per centum of the flowage rights and rights-of-way hereinabove contemplated in excess of \$20,000,000: *Provided further*, That the Chief of Engineers is authorized, out of the funds herein authorized to be appropriated, to purchase flowage easements over lands and properties in the floodway west of the Atchafalaya River and lying above the approximate latitude of Krotz Springs: *Provided further*, That none of such easements in said West Atchafalaya Floodway shall be purchased until options covering at least 75 per centum of the total value of such easements as estimated by the Chief of Engineers shall have been obtained at prices deemed reasonable by the Chief of Engineers and not exceeding in the aggregate \$2,250,000 for said 75 per centum of said easements with respect to the floodway west of the Atchafalaya River: *Provided further*, That easements required in said West Atchafalaya Floodway in connection with roads and other public utilities owned by States or other political subdivisions shall be provided without cost to the United States upon condition that the United States shall provide suitable crossings, including surfacing of like character, over floodway guide-line levees for all improved roads in said West Atchafalaya Floodway now constituting a part of the State highway system and shall repair all damage done to said highways within said West Atchafalaya Floodway by the actual use of such floodway for diversion: *Provided further*, That no flowage easements shall be paid for by the United States over properties subject to frequent overflow in the Atchafalaya Basin below the approximate latitude of Krotz Springs: *Provided further*, That payment for rights-of-way, easements, and flowage rights acquired under this section, or reimbursement to the States or local interests furnishing them, shall be made as soon as the Chief of Engineers is satisfied that such rights-of-way, easements, or flowage rights have been acquired in conformity with local custom or legal procedure in such matters; and, thereafter, no liability of any kind shall attach to or rest upon the United States for any further damage by reason of diversions or flood waters: *And provided further*, That if the Secretary of Agriculture shall determine to ac-

quire any of the properties within the floodways herein referred to, for national forests, wildlife refuges, or other purposes of his Department, the Secretary of the Army may, upon recommendation by the Chief of Engineers, in lieu of acquiring flowage rights, advance to or reimburse the said Secretary of Agriculture sums equal to those that would otherwise be used for the purchase of easements desired by the Department of the Army and the Secretary of Agriculture is authorized to use these sums for the purpose of acquiring properties in the floodways in question.

(June 15, 1936, ch. 548, § 12, 49 Stat. 1512; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

#### REFERENCES IN TEXT

Herein, referred to in text, means act June 15, 1936, ch. 548, 49 Stat. 1508, as amended, which enacted sections 642a, 702a-1, 702-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title. For complete classification of this Act to the Code, see Tables.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

### § 702a-11. Morganza Floodway; Eudora Floodway

The United States may, within the discretion of the Chief of Engineers, irrespective of other provisions of law, proceed to acquire all easements needed and of the character considered advisable in the Morganza floodway and to construct said Morganza floodway. Said Morganza floodway may, within the discretion of the Chief of Engineers, be modified as to its design and inflow.

The said Morganza floodway may be initiated and constructed without delay; and the United States may, within the discretion of the Chief of Engineers, irrespective of other provisions of law, proceed to the acquisition of flowage rights and flowage easements in the Eudora floodway, and to its construction as authorized by existing law: *Provided*, That the intakes of such Eudora floodway shall include an automatic masonry weir with its sill at such an elevation that it will not be overtopped by stages other than those capable of producing a stage of fifty-one feet or over on the Vicksburg gage: *Provided further*, That a fuseplug levee loop may be constructed behind said sill to prevent flow into the floodway until the predicted flood exceeds the safe capacity of the main river leveed channel, with a free-board of at least three feet, but said fuseplug levee may be artificially breached when in the opinion of the Chief of Engineers such breaching is advisable to insure the safety of the main river controlling levee line: *Provided further*, That the authority to acquire lands, flowage rights, and easements for floodways shall be confined to the floodways proper and to the northward extension of Eudora: *Provided further*, That within the discretion of the Chief of Engineers, the guide line levees of the Eudora flood-

way may be extended south toward Old River: *Provided further*, That the Chief of Engineers is authorized to construct the said Eudora floodway at such location as he may determine, in the vicinity of Eudora. The United States may, within the discretion of the Chief of Engineers irrespective of other provisions of law, proceed to acquire flowage rights and flowage easements in the northward extension of the Eudora floodway, as authorized by existing law, provided that pending the completion of such northward extension all the Riverside fuseplug levee extending south from the vicinity of Yancopin to the vicinity of Vau Cluse, Arkansas, and so as to connect with the existing levee of 1928 grade and section, shall be reconstructed to the 1914 grade and 1928 section: *Provided further*, That if the back protection levee is constructed prior to the construction of Eudora floodway, it shall be connected with the main Mississippi River levee and subsequently connected with the Eudora floodway when constructed: *Provided further*, That the Chief of Engineers is authorized, in his discretion, to negotiate options, make agreements and offers with respect to lands, flowage rights, easements, and rights-of-way involved, as provided by law, at prices deemed reasonable by him.

The United States, irrespective of other provisions of law, may, within the discretion of the Chief of Engineers, acquire flowage easements over all lands not subject to frequent overflow in the Atchafalaya Basin below the latitude of Krotz Springs.

Said Morganza floodway shall not be operated until the Wax Lake outlet has been put into operative condition.

The fuseplug levees at the head of the Atchafalaya Basin on the east side of the Atchafalaya River shall be reconstructed to the 1928 grade and section.

The United States may, in the discretion of the Chief of Engineers, acquire all flowage rights, flowage easements, rights-of-way for levee foundations, and titles in fee simple as herein provided, either by voluntary acquisition or in accordance with the condemnation proceedings by the Secretary of the Army as provided for in section 702d of this title.

In the event the United States acquires or owns title to any lands in fee simple under the provisions of sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title, as amended and supplemented, the United States may retain the ownership thereof, or any part thereof instead of turning over such lands to the ownership of States or local interests as provided in section 702d of this title, and may lease such lands: *Provided*, That 25 per centum of all moneys received and deposited in the Treasury of the United States during any fiscal year on account of such leases shall be paid, at the end of such year, by the Secretary of the Treasury to the State in which such property is situated, to be expended as the State legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such property is situated: *Provided further*, That when such property is situated in more than one State or county the distributive share to each from the proceeds of such property

shall be proportional to its area therein: *Provided further*, That no part of the appropriations herein or heretofore authorized for said Morganza and Eudora floodways and extension shall be used for any other purpose.

(June 15, 1936, ch. 548 (pt.), as added June 28, 1938, ch. 795, § 4, 52 Stat. 1220; amended July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

#### REFERENCES IN TEXT

Herein, referred to in text, means act June 15, 1936, ch. 548, 49 Stat. 1508, as amended, which enacted sections 642a, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title. For complete classification of this Act to the Code, see Tables.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### EFFECT OF AMENDMENT

Act June 28, 1938, provided that, except as amended therein, the act of May 15, 1928, ch. 569, 45 Stat. 534, as amended by the act of June 15, 1936, as amended, should remain in full force and effect. Act May 15, 1928, is classified to sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title.

#### ABANDONMENT AND REPEAL OF PROJECTS

For abandonment of Boeuf Floodway and Eudora Floodway as well as Northward Extension and back protection levee extending from head of Eudora Floodway north to Arkansas River and repeal of provisions relating to prosecution of work, see section 702a-12 of this title.

### § 702a-12. Modified Lower Mississippi River project as of August 18, 1941

#### (a) Alluvial valley, Mississippi River; Yazoo Basin levees; abandonment of Boeuf and Eudora Floodways and Northward Extension

The existing engineering plan for flood control in the alluvial valley of the Mississippi River is modified so as to provide for the construction of plan 4 as set forth in the report of the Mississippi River Commission, dated March 7, 1941, to the Chief of Engineers, except that the levees in the Yazoo Basin on the east bank of the Mississippi River south of the Coahoma-Bolivar County line in said plan shall have a three foot freeboard over the project flood, and all levees shall be constructed with adequate section and foundation to conform to increased levee heights. The Boeuf Floodway in the project adopted by sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title, and the Eudora Floodway as well as the Northward Extension and the back protection levee extending from the head of the said Eudora Floodway north to the Arkansas River in the project adopted by sections 642a, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title, are abandoned, and the provisions of said sections relating to the prosecution of work on said floodways and extension are repealed; except that the Ouachita River Levees,

Louisiana, authorized by section 702a of this title, shall remain as a component of the Mississippi River and Tributaries Project and afforded operation and maintenance responsibilities as provided under section 702c of this title.

#### (b) Yazoo River project

The project for flood control of the Yazoo River shall be as authorized by sections 642a, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title, except that the Chief of Engineers may, in his discretion, from time to time, substitute therefor combinations of reservoirs, levees, and channel improvements; and except that the extension of the authorized project and improvements contemplated in plan C of the report of March 7, 1941, of the Mississippi River Commission are authorized, including the extension of the levee on the east bank of the Mississippi River generally along the west bank of the Yazoo River to a connection in the vicinity of Yazoo City with the Yazoo River levee, authorized by the existing project for protection against headwater floods of the Yazoo River system, and the adjustment in the discretion of the Chief of Engineers of the grades of the existing levees in the backwater area on the east bank of Yazoo River below Yazoo City, all at an estimated additional cost of \$11,982,000: *Provided*, That the Chief of Engineers shall fix the grade of the extension levees along the Yazoo River, with higher levees in his discretion, so that their construction will give the maximum practical protection without jeopardizing the safety and integrity of the main Mississippi River levees: *And provided further*, That prior to the beginning of construction local authorities shall furnish satisfactory assurances that they will (1) maintain the levees in accordance with the provisions of section 702c of this title, and will (2) not raise the levees in the backwater above the limiting elevations established therefor by the Chief of Engineers.

#### (c) Tensas-Cocodrie backwater area

In the development of the authorized project, the construction of a levee and improvements contemplated in the report of March 7, 1941, of the Mississippi River Commission from the main-line levee on the west bank of the Mississippi River in the vicinity of Shaw, Louisiana, westward and northward to the vicinity of Newlight, Louisiana, for the protection of that part of the Red River backwater known as the Tensas-Cocodrie area at an estimated cost of \$6,976,000 is authorized: *Provided*, That the Chief of Engineers shall fix the grade of said levee, with a higher levee in his discretion, so that its construction will give the maximum practical protection without jeopardizing the safety and integrity of the main Mississippi River levees: *And provided further*, That prior to the beginning of construction local authorities shall furnish satisfactory assurances that they will (1) maintain the levee in accordance with the provisions of section 702c of this title, and will (2) not raise the said levee above the limiting elevations established therefor by the Chief of Engineers: *Provided further*, That subject to the foregoing conditions of local cooperation the Chief of Engineers may in his discretion substitute other levees and appurtenant works for, or make such

modifications of, the levees and improvements herein authorized for the protection of the Tensas-Cocodrie area as may be found after further investigation to afford protection to a larger area in the Red River Backwater at a total cost not to exceed \$29,000,000 and without jeopardizing the safety and integrity of the main Mississippi River levees and without preventing or jeopardizing the diversions contemplated in the adopted project through the Atchafalaya River and Atchafalaya Basin.

**(d) Reimbursement of local authorities for certain expenses**

The Chief of Engineers, with approval of the Secretary of the Army, shall reimburse local authorities for actual expenditures found by the Chief of Engineers to be reasonable, for providing at the request of the United States, in accordance with local legal procedure or custom, rights-of-way and flowage easements required for future setbacks of main-line Mississippi River levees.

**(e) Saint Francis River**

The existing engineering plan for flood control of the Saint Francis River is modified so as to permit the substitution for the suspended portions of the original project below Oak Donnick, Arkansas, of the construction of a ditch in Cross County, Arkansas, beginning in the vicinity of the outlet end of the existing Oak Donnick to Saint Francis Bay floodway and terminating in Saint Francis Bay about two miles north of Riverfront, including the construction of a highway bridge at State Highway Numbered 42 made necessary by the ditch construction: *Provided*, That local interests give assurances satisfactory to the Secretary of the Army that they will (1) provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction; (2) hold and save the United States free from damages due to the construction works; and (3) maintain the works after completion in accordance with regulations prescribed by the Secretary of the Army.

**(f) Bayou Rapides, Boeuf, and Cocodrie, Louisiana, improvements**

In the development of the authorized project, the construction of improvements for Bayou Rapides, Boeuf, and Cocodrie, Louisiana, contemplated in the report dated March 24, 1941, of the Special Board of Officers at an estimated cost of \$2,600,000 is authorized.

**(g) Increased authorizations for alluvial valley, Mississippi River**

The total authorizations heretofore made for the flood control project of the alluvial valley of the Mississippi River shall not be increased by reason of any provision in this Act, except for the additional amounts necessary for the Yazoo and Red River backwater improvements, and any appropriations heretofore or hereafter made or authorized for said project as herein or heretofore modified may be expended upon any feature of the said project, notwithstanding any restrictions, limitations, or requirements of existing law: *Provided*, That funds hereafter expended for maintenance shall not be considered as reducing present remaining balances of authorizations.

(June 15, 1936, ch. 548 (pt.), as added Aug. 18, 1941, ch. 377, § 3, 55 Stat. 642; amended July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; May 17, 1950, ch. 188, title II, § 204(a), 64 Stat. 172; Pub. L. 110-114, title III, § 3013(b), Nov. 8, 2007, 121 Stat. 1109.)

REFERENCES IN TEXT

Herein, referred to in subsecs. (c) and (g), and this Act, referred to in subsec. (g), probably mean act June 15, 1936, ch. 548, 49 Stat. 1508, as amended, which enacted sections 642a, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title. For complete classification of this Act to the Code, see Tables.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

AMENDMENTS

2007—Subsec. (a). Pub. L. 110-114, in last sentence, inserted "; except that the Ouachita River Levees, Louisiana, authorized by section 702a of this title, shall remain as a component of the Mississippi River and Tributaries Project and afforded operation and maintenance responsibilities as provided under section 702c of this title" before period at end.

1950—Subsec. (c). Act May 17, 1950, substituted "\$29,000,000" for "\$14,000,000".

APPLICATION OF 1950 INCREASE IN AUTHORIZATION CONTAINED IN SUBSEC. (c) TO OLD AND ATCHAFALAYA RIVERS PROJECT

Section 203 of act Sept. 3, 1954, ch. 1264, title II, 68 Stat. 1258, in addition to authorizing an amount of \$32,000,000 for control of the Old and Atchafalaya Rivers and a lock for navigation, provided in part that the \$15,000,000 increase in authorization by act May 17, 1950 in amending subsec. (c) of this section (see 1950 Amendment note above), should be applied to such project.

**§ 702b. Local contribution toward cost of flood control work**

It is declared to be the sense of Congress that the principle of local contribution toward the cost of flood control work, which has been incorporated in all previous national legislation on the subject, is sound, as recognizing the special interest of the local population in its own protection, and as a means of preventing inordinate requests for unjustified items of work having no material national interest. As a full compliance with this principle in view of the great expenditure estimated at approximately \$292,000,000, prior to May 15, 1928, made by the local interests in the alluvial valley of the Mississippi River for protection against the floods of that river; in view of the extent of national concern in the control of these floods in the interests of national prosperity, the flow of interstate commerce, and the movement of the United States mails; and, in view of the gigantic scale of the project, involving flood waters of a volume and flowing from a drainage area largely outside the States most affected, and far exceeding those of any other river in the United States, no local contribution to the project herein adopted is required.

(May 15, 1928, ch. 569, § 2, 45 Stat. 535.)

#### REFERENCES IN TEXT

Herein, referred to in text, means act May 15, 1928, ch. 569, 45 Stat. 534, as amended, which enacted sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title. For complete classification of this Act to the Code, see Tables.

#### **§ 702c. Expenditures for construction work; conditions precedent; liability for damage from flood waters; condemnation proceedings; floodage rights**

Except when authorized by the Secretary of the Army upon the recommendation of the Chief of Engineers, no money appropriated under authority of sections 702a and 702g of this title shall be expended on the construction of any item of the project until the States or levee districts have given assurances satisfactory to the Secretary of the Army that they will (a) maintain all flood-control works after their completion, except controlling and regulating spillway structures, including special relief levees; maintenance includes normally such matters as cutting grass, removal of weeds, local drainage, and minor repairs of main river levees; (b) agree to accept land turned over to them under the provisions of section 702d of this title; (c) provide without cost to the United States, all rights-of-way for levee foundations and levees on the main stem of the Mississippi River between Cape Girardeau, Missouri, and the Head of Passes.

No liability of any kind shall attach to or rest upon the United States for any damage from or by floods or flood waters at any place: *Provided, however,* That if in carrying out the purposes of sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title it shall be found that upon any stretch of the banks of the Mississippi River it is impracticable to construct levees, either because such construction is not economically justified or because such construction would unreasonably restrict the flood channel, and lands in such stretch of the river are subjected to overflow and damage which are not now overflowed or damaged by reason of the construction of levees on the opposite banks of the river it shall be the duty of the Secretary of the Army and the Chief of Engineers to institute proceedings on behalf of the United States Government to acquire either the absolute ownership of the lands so subjected to overflow and damage or floodage rights over such lands.

(May 15, 1928, ch. 569, § 3, 45 Stat. 535; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### **§ 702d. Flowage rights; condemnation proceedings; benefits to property**

The United States shall provide flowage rights for additional destructive flood waters that will

pass by reason of diversions from the main channel of the Mississippi River: *Provided,* That in all cases where the execution of the flood control plan herein adopted results in benefits to property such benefits shall be taken into consideration by way of reducing the amount of compensation to be paid.

The Secretary of the Army may cause proceedings to be instituted for the acquirement by condemnation of any lands, easements, or rights of way which, in the opinion of the Secretary of the Army and the Chief of Engineers, are needed in carrying out this project, the said proceedings to be instituted in the United States district court for the district in which the land, easement, or right of way is located. In all such proceedings the practice, pleadings, forms, and modes of proceedings shall conform as near as may be to the practice, pleadings, forms, and proceedings existing at the time in like causes in the courts of record of the State within which such district court is held, any rule of the court to the contrary notwithstanding. When the owner of any land, easement, or right of way shall fix a price for the same which, in the opinion of the Secretary of the Army is reasonable, he may purchase the same at such price; and the Secretary of the Army is also authorized to accept donations of lands, easements, and rights of way required for this project. The provisions of sections 594 and 595 of this title are made applicable to the acquisition of lands, easements, or rights of way needed for works of flood control: *Provided,* That any land acquired under the provisions of this section shall be turned over without cost to the ownership of States or local interests.

(May 15, 1928, ch. 569, § 4, 45 Stat. 536; Nov. 30, 1945, ch. 496, 59 Stat. 587; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

#### AMENDMENTS

1945—Act Nov. 30, 1945, substituted second sentence of second par. for a sentence which read "In all such proceedings the court, for the purpose of ascertaining the value of the property and assessing the compensation to be paid, shall appoint three commissioners, whose award, when confirmed by the court, shall be final."

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### **§ 702d-1. Bonnet Carre Spillway and Floodway; rights-of-way, etc., over lands**

The proviso in section 702d of this title "That any land acquired under the provisions of this section shall be turned over without cost to the ownership of States or local interests," shall not apply to the lands heretofore acquired or that may be hereafter acquired in connection with the construction, maintenance, or operation of the Bonnet Carre Spillway and Floodway. The Secretary of the Army is authorized to grant to any citizen, association, railroad, or other cor-



poration, State or public agency thereof, rights-of-way, easements, and permits, over, across, in, and upon said lands for railway, highway, telephone, telegraph, and pipe-line crossings, and other purposes. The grants issued in pursuance of this authority shall be under such terms and conditions as the Secretary of the Army may deem advisable for the protection of the public interests, and may be perpetual or temporary in his discretion.

(Feb. 15, 1933, ch. 76, 47 Stat. 810; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### § 702e. Maps for project; preparation

Subject to the approval of the heads of the several executive departments concerned, the Secretary of the Army, on the recommendation of the Chief of Engineers, may engage the services and assistance of the National Ocean Survey, the United States Geological Survey, or other mapping agencies of the Government, in the preparation of maps required in furtherance of this project, and funds to pay for such services may be allotted from appropriations made under authority of sections 702a and 702g of this title.

(May 15, 1928, ch. 569, §5, 45 Stat. 536; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; Pub. L. 102-154, title I, Nov. 13, 1991, 105 Stat. 1000.)

#### CHANGE OF NAME

"United States Geological Survey" substituted in text for "Geological Survey" pursuant to provision of title I of Pub. L. 102-154, set out as a note under section 31 of Title 43, Public Lands.

Coast and Geodetic Survey consolidated with National Weather Bureau in 1965 to form Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318. Environmental Science Services Administration abolished in 1970, and its personnel, property, records, etc., transferred to National Oceanic and Atmospheric Administration by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. By order of Acting Associate Administrator of National Oceanic and Atmospheric Administration, 35 F.R. 19249, Dec. 19, 1970, Coast and Geodetic Survey redesignated National Ocean Survey. See notes set out under section 311 of Title 15, Commerce and Trade.

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with

power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees. The Geological Survey, referred to in text, is an agency of Department of the Interior.

#### § 702f. Expenditures for earlier projects

Funds appropriated under authority of section 702a of this title may be expended for the prosecution of such works for the control of the floods of the Mississippi River as have, prior to May 15, 1928, been authorized and are not included in the present project, including levee work on the Mississippi River between Rock Island, Illinois, and Cape Girardeau, Missouri, and on the outlets and tributaries of the Mississippi River between Rock Island and Head of Passes insofar as such outlets or tributaries are affected by the backwaters of the Mississippi: *Provided*, That for such work on the Mississippi River between Rock Island, Illinois, and Cape Girardeau, Missouri, and on such tributaries, the States or levee districts shall provide rights-of-way without cost to the United States, contribute 33⅓ per centum of the costs of the works, and maintain them after completion: *And provided further*, That not more than \$10,000,000 of the sums authorized in section 702a of this title, shall be expended under the provisions of this section. In an emergency, funds appropriated under authority of section 702a of this title may be expended for the maintenance of any levee when it is demonstrated to the satisfaction of the Secretary of the Army that the levee cannot be adequately maintained by the State or levee district.

(May 15, 1928, ch. 569, §6, 45 Stat. 536; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### § 702g. Appropriation for emergency fund

The sum of \$5,000,000 is authorized to be appropriated as an emergency fund to be allotted by the Secretary of the Army on the recommendation of the Chief of Engineers, in rescue work or in the repair or maintenance of any flood-control work on any tributaries of the Mississippi River threatened or destroyed by flood including the flood of 1927: *Provided*, That the unexpended and unallotted balance of said sum, or so much thereof as may be necessary, may be allotted by the Secretary of the Army on the recommendation of the Chief of Engineers in the reimbursement of levee districts or others for expenditures heretofore incurred or made for the construction, repair, or maintenance of any flood-control work on any tributaries or outlets of the Mississippi River that may be threatened, impaired, or destroyed by the flood of 1927 or subsequent flood or that have been impaired, damaged, or destroyed by flood; and also in the con-

struction, repair, or maintenance, and in the reimbursement of levee districts or others for the construction, repair, or maintenance of any flood-control work on any of the tributaries or outlets of the Mississippi River that have been impaired, damaged, or destroyed by caving banks or that may be threatened or impaired by caving banks of such tributaries, whether or not such caving has taken place during a flood stage: *Provided further*, That if the Chief of Engineers finds that it has been or will be necessary or advisable to change the location of any such flood-control work in order to provide the protection contemplated by this section, such change may be approved and/or authorized.

(May 15, 1928, ch. 569, § 7, 45 Stat. 537; June 19, 1930, ch. 542, 46 Stat. 787; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

#### AMENDMENTS

1930—Act June 19, 1930, inserted provisos.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### § 702g-1. Additional appropriation for emergency fund

The sum of \$15,000,000 is authorized to be appropriated as an emergency fund to be allocated by the Secretary of the Army on the recommendation of the Chief of Engineers in rescue work or in the repair or maintenance of any flood-control work on any tributary of the Mississippi River threatened or destroyed by flood heretofore or hereafter occurring: *Provided*, That the unexpended and unallotted balance of said sum, or so much thereof as may be necessary, may be allotted by the Secretary of the Army, on the recommendation of the Chief of Engineers, in the reimbursement of levee districts or others for expenditures incurred or made prior to June 15, 1936 for the construction, repair, or maintenance of any flood-control work on any tributaries or outlets of the Mississippi River that may be threatened, impaired, or destroyed by the flood of 1927 or subsequent flood; and also in the construction, repair, or maintenance, and in the reimbursement of levee districts or others for the construction, repair, or maintenance of any flood-control work on any of the tributaries or outlets of the Mississippi River that may have been impaired, damaged, or destroyed by caving banks or that may be threatened or impaired by caving banks, of such tributaries, whether or not such caving has taken place during a flood stage: *Provided further*, That if the Chief of Engineers finds that it has been or will be necessary or advisable to change the location of any such flood-control work in order to provide the protection contemplated by this section, such change may be approved and authorized.

(June 15, 1936, ch. 548, § 9, 49 Stat. 1511; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### § 702h. Prosecution of project by Mississippi River Commission; president of commission; salaries

The project herein authorized shall be prosecuted by the Mississippi River Commission under the direction of the Secretary of the Army and supervision of the Chief of Engineers and subject to the provisions of sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title. It shall perform such functions and through such agencies as they shall designate after consultation and discussion with the president of the commission. For all other purposes the existing laws governing the constitution and activities of the commission shall remain unchanged. The commission shall make inspection trips of such frequency and duration as will enable it to acquire first-hand information as to conditions and problems germane to the matter of flood control within the area of its jurisdiction; and on such trips of inspection ample opportunity for hearings and suggestions shall be afforded persons affected by or interested in such problems. The president of the commission shall be the executive officer thereof and shall have the qualifications prescribed by law on May 15, 1928, for the Assistant Chief of Engineers, shall have the title brigadier general, Corps of Engineers, and shall have the rank, pay, and allowances of a brigadier general while actually assigned to such duty: *Provided*, That the incumbent of the office on May 15, 1928, may be appointed a brigadier general of the Army, retired, and shall be eligible for the position of president of the commission if recalled to active service by the President under the provisions of existing law.

The official salary of any officer of the United States Army or other branch of the Government appointed or employed under sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title shall be deducted from the amount of salary or compensation provided by, or which shall be fixed under, the terms of such sections.

(May 15, 1928, ch. 569, § 8, 45 Stat. 537; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 106-53, title V, § 558, Aug. 17, 1999, 113 Stat. 354.)

#### REFERENCES IN TEXT

Herein, referred to in text, means act May 15, 1928, ch. 569, 45 Stat. 534, as amended, which enacted sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title. For complete classification of this Act to the Code, see Tables. The "project herein authorized" was specifically authorized by section 702a of this title.

#### CODIFICATION

Provisions of the second paragraph, as amended by Pub. L. 106-53, that read: "The salary of the president

of the Mississippi River Commission shall hereafter be \$10,000 per annum, and the salary of the other members of the commission shall hereafter be \$21,500 per annum." were omitted as obsolete and superseded by the Classification Act of 1949, 63 Stat. 954, 972. The Classification Act of 1949 was repealed by Pub. L. 89-554, Sept. 6, 1966, §8(a), 80 Stat. 632, and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees. Section 5102 of Title 5 contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

#### AMENDMENTS

1999—Pub. L. 106-53 amended provisions which were omitted from the second paragraph by substituting "\$21,500" for "\$7,500". See Codification note above.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

### § 702h-1. Transferred

#### CODIFICATION

Section has been transferred to section 642a of this title.

### § 702i. Certain sections applicable to property and rights acquired or constructed

The provisions of sections 407, 408, 411, 412, and 413 of this title are made applicable to all lands, waters, easements, and other property and rights acquired or constructed under the provisions of sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title.

(May 15, 1928, ch. 569, §9, 45 Stat. 537.)

### § 702j. Projects relating to tributary streams; report to Congress; appropriation

It is the sense of Congress that the surveys of the Mississippi River and its tributaries, authorized pursuant to the Act of January 21, 1927 [ch. 47, 44 Stat. 1010], and House Document Numbered 308, Sixty-ninth Congress, first session, be prosecuted as speedily as practicable, and the Secretary of the Army, through the Corps of Engineers, United States Army, is directed to prepare and submit to Congress at the earliest practicable date projects for flood control on all tributary streams of the Mississippi River system subject to destructive floods which projects shall include: The Red River and tributaries, the Yazoo River and tributaries, the White River and tributaries, the Saint Francis River and tributaries, the Arkansas River and tributaries, the Ohio River and tributaries, the Missouri River and tributaries, and the Illinois River and tributaries; and the reports thereon, in addition to the surveys provided by said House Document 308, Sixty-ninth Congress, first session, shall include the effect on the subject of further flood control of the lower Mississippi River to be attained through the control of the flood waters in

the drainage basins of the tributaries by the establishment of a reservoir system; the benefits that will accrue to navigation and agriculture from the prevention of erosion and siltage entering the stream; a determination of the capacity of the soils of the district to receive and hold waters from such reservoirs; the prospective income from the disposal of reservoir waters; the extent to which reservoir waters may be made available for public and private uses; and inquiry as to the return flow of waters placed in the soils from reservoirs, and as to their stabilizing effect on stream flow as a means of preventing erosion, siltage, and improving navigation: *Provided*, That before transmitting such reports to Congress the same shall be presented to the Mississippi River Commission, and its conclusions and recommendations thereon shall be transmitted to Congress by the Secretary of the Army with his report.

The sum of \$5,000,000 is authorized to be used out of the appropriation authorized in section 702a of this title, in addition to amounts authorized in the River and Harbor Act of January 21, 1927 [ch. 47, 44 Stat. 1010], to be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for the preparation of the flood-control projects authorized to be submitted to Congress under this section: *Provided further*, That the flood surveys herein provided for shall be made simultaneously with the flood-control work on the Mississippi River provided for in sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title: *And provided further*, That the President shall proceed to ascertain through the Secretary of Agriculture and such other agencies as he may deem proper, the extent to and manner in which the floods in the Mississippi Valley may be controlled by proper forestry practice.

(May 15, 1928, ch. 569, §10, 45 Stat. 538; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

#### REFERENCES IN TEXT

Act of January 21, 1927 [ch. 47, 44 Stat. 1010], referred to in text, popularly known as the River and Harbor Act of January 21, 1927, was not classified to the Code, except for subsections (b) and (d) of section 5 of the act, which enacted sections 569 and 584 of this title.

Herein, referred to in text, means act May 15, 1928, ch. 569, 45 Stat. 534, as amended, which enacted sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title. For complete classification of this Act to the Code, see Tables.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of Agriculture, with certain exceptions, to Secretary of Agriculture, with power to delegate, see Reorg. Plan No. 2 of 1953, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Ap-

pendix to Title 5, Government Organization and Employees.

#### CODIFICATION

Par. (1) is comprised of act June 15, 1936, and par. (2) is from act Aug. 28, 1937.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

### § 702j-1. Saint Francis and Yazoo Rivers; lands and easements; alteration of highways; co-operation of States

(1) Neither of the projects for the flood control of the Saint Francis River or the Yazoo River, authorized by sections 642a, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title, shall be undertaken until the States, or other qualified agencies, shall have furnished satisfactory assurances that they will undertake, without cost to the United States, all alterations of highways made necessary because of the construction of the authorized reservoirs, and meet all damages because of such highway alterations, and have agreed also to furnish without cost to the United States all lands and easements necessary to the construction of levees and drainage ditches constructed under this project: *Provided*, That the reservoirs for control of headwater flow of the Yazoo River system may be located by the Chief of Engineers, in his discretion: *And provided further*, That the Chief of Engineers may, in his discretion, substitute levees, floodways, or auxiliary channels, or any or all of them, for any or all of the seven detention reservoirs recommended in his report of February 12, 1935, for the control of floods of the Yazoo River: *And provided further*, That the Chief of Engineers, with the approval of the Secretary of the Army, may modify the project for the flood control of the Saint Francis River as recommended in said report, to include therein the construction of a detention reservoir for the reduction of floods, and the acquisition at the cost of the United States of all lands and flowage necessary to the construction of said reservoir except flowage of highways: *Provided further*, That the estimated cost to the United States of the project is not increased by reason of such detention reservoir.

(2) The Chief of Engineers may, in his discretion, modify the project for the control of floods on the Yazoo River, as authorized by paragraph (1) of this section, to substitute therefor a combined reservoir floodway and levee plan: *Provided*, That the total cost thereof does not exceed the present authorization as estimated in House Committee on Flood Control Document Numbered 1, Seventy-fourth Congress, first session: *Provided further*, That the modified project shall be subject to the following conditions of local cooperation:

No work shall be undertaken until the States or other qualified agencies have furnished satisfactory assurances that they will—

(a) undertake, without cost to the United States, all alterations of highways made necessary because of the construction of reservoirs and meet all damages because of such highway alterations; and

(b) furnish, without cost to the United States, all lands and easements necessary to the construction of levees and drainage ditches.

(June 15, 1936, ch. 548, § 4, 49 Stat. 1509; Aug. 28, 1937, ch. 877, § 6, 50 Stat. 880; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

### § 702j-2. White River Levee District; rights-of-way; drainage facilities; flowage rights; acquisition by local authorities; protection of United States from liability for damages

The Chief of Engineers, under the supervision of the Secretary of the Army, shall at the expense of the United States Government construct a system of levees substantially in accordance with general plan shown on map designated as sheet numbered 1 entitled "Tributary Levee Location Survey—White River Levee District—Proposed Levee Location" accompanying report dated April 2, 1925, and filed in office of First and Second Mississippi River Commission Districts, Memphis, Tennessee. The Chief of Engineers shall have the right to alter, change, or modify said plan as to the grades and levee sections: *Provided, however*, That no work shall be commenced on the above-mentioned project until the State, levee boards, or other responsible local interests have given assurances satisfactory to the Secretary of the Army that they will (a) provide without cost to the United States all rights-of-way necessary for the construction of said project; (b) provide drainage facilities made necessary by construction of levees; (c) acquire and provide without cost to the United States all flowage and storage rights and easements over, upon, and across the lands and properties within the protected area in the event it becomes necessary in the judgment and discretion of the Secretary of the Army or the Chief of Engineers to use said area, or any part thereof, for an emergency reservoir; (d) hold and save the United States free from liability for damages on account of the use of said area for reservoir purposes during said emergency.

(June 15, 1936, ch. 548, § 5, 49 Stat. 1509; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

### § 702k. Surveys below Cape Girardeau, Missouri; resurvey of levee in Tennessee

The Secretary of the Army shall cause the Mississippi River Commission to make an examination and survey of the Mississippi River below Cape Girardeau, Missouri, (a) at places

where levees have prior to May 15, 1928, been constructed on one side of the river and the lands on the opposite side have been thereby subjected to greater overflow, and were, without unreasonably restricting the flood channel, levees can be constructed to reduce the extent of this overflow, and where the construction of such levees is economically justified, and report thereon to the Congress as soon as practicable with such recommendations as the commission may deem advisable; (b) with a view to determining the estimated effects, if any, upon lands lying between the river and adjacent hills by reason of overflow of such lands caused by the construction of levees at other points along the Mississippi River, and determining the equities of the owners of such lands and the value of the same, and the commission shall report thereon to the Congress as soon as practicable with such recommendation as it may deem advisable: *Provided*, That inasmuch as the Mississippi River Commission made a report on the 26th day of October 1912, recommending a levee to be built from Tiptonville, Tennessee, to the Obion River in Tennessee, the said Mississippi River Commission is authorized to make a resurvey of said proposed levee and a relocation of the same if necessary, and if such levee is found feasible, and is approved by the board created in section 702a of this title, and by the President the same shall be built out of appropriations made after May 15, 1928.

(May 15, 1928, ch. 569, §11, 45 Stat. 538; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### § 702k-1. Authorization of appropriation

\$272,000,000 is authorized to be appropriated for the carrying out of the modified adopted project, and all unexpended balances of appropriations heretofore made for the prosecution of said flood-control project are made available for the purposes of sections 642a, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title.

(June 15, 1936, ch. 548, §13, 49 Stat. 1513.)

#### § 702k-2. Separability

If any provision of sections 642a, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, and 702k-1 of this title, or the application thereof, to any person or circumstances, is held invalid, the remainder of the said sections, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

(June 15, 1936, ch. 548, §14, 49 Stat. 1513.)

#### § 702l. Repeal of inconsistent laws

All laws or parts of laws inconsistent with sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, and 702k of this title, are repealed.

(May 15, 1928, ch. 569, §12, 45 Stat. 539.)

#### § 702m. Interest of Members of Congress in contracts for acquisition of land

In every contract or agreement to be made or entered into for the acquisition of land either by private sale or condemnation as in sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title provided the provisions contained in section 6306(a) of title 41 shall be applicable.

(May 15, 1928, ch. 569, §14, 45 Stat. 539.)

#### CODIFICATION

In text, "section 6306(a)" substituted for "section 3741 of the Revised Statutes being section 22 of title 41 of the United States Code" on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

#### § 702n. Levee rights-of-way; payment or reimbursement for

The Secretary of the Army is authorized, out of any money available for carrying out the provisions of sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title, to purchase from, or to reimburse States or local levee districts for the cost of, any levee rights-of-way or easements for the building of levees in the Mississippi Valley for which the United States was or is under obligation to pay under the provisions of said sections regardless of whether said States or local levee districts have furnished such rights-of-way in the past and regardless of the conditions under which such levee rights-of-way were furnished, or may be furnished in the future: *Provided*, That after careful investigation the prices are found to be reasonable: *And provided further*, That payments or reimbursements for levee rights-of-way or easements conveying the privilege of building levees may be made as soon as they have been acquired in conformity with local custom or legal procedure in such matters and to the satisfaction of the Chief of Engineers.

(Apr. 23, 1934, ch. 159, 48 Stat. 607; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### § 703. Sacramento River, California

[FLOOD-CONTROL WORKS AUTHORIZED.] For controlling the floods, removing the débris, and continuing the improvement of the Sacramento River, California, in accordance with the plans of the California Débris Commission, the Secretary of the Army is authorized and directed to carry on continuously, by hired labor or otherwise, the plan of said commission contained in its report submitted August 10, 1910, and printed in House Document Numbered 81, Sixty-second Congress, first session, as modified by the report

of said commission submitted February 8, 1913, approved by the Chief of Engineers of the United States Army and the Board of Engineers for Rivers and Harbors, and printed in Rivers and Harbors Committee Document Numbered 5, Sixty-third Congress, first session, insofar as said plan provides for the rectification and enlargement of river channels and the construction of weirs, to be paid for as appropriations may from time to time be made by law, not to exceed in the aggregate \$5,600,000: *Provided*, That not more than \$1,000,000 shall be expended therefor during any one fiscal year.

[LIMITATION ON EXPENDITURE OF APPROPRIATIONS GENERALLY.] (a) All money appropriated under authority of this section shall be expended under the direction of the Secretary of the Army, in accordance with the plans, specifications, and recommendations of the California Débris Commission, as approved by the Chief of Engineers, for the control of floods, removal of debris, and the general improvement of the Sacramento River: *Provided*, That no money shall be expended under authority of this section until assurances have been given satisfactory to the Secretary of the Army (a) that the State of California will contribute annually for such work a sum equal to such sum as may be expended annually therefor by the United States under authority of this section; (b) that such equal contributions by the State of California will continue annually until the full equal share of the cost of such work shall have been contributed by said State; and (c) that the river levees contemplated in the report of the California Débris Commission, dated August 10, 1910, will be constructed to such grade and section and within such time as may be required by said commission: *Provided further*, That said State shall not be required to expend for such work, for any one year, a sum larger than that expended thereon by the United States during the same year: *And provided further*, That the total contributions so required of the State of California shall not exceed in the aggregate \$5,600,000.

[EXPENDITURE OF CONTRIBUTIONS BY STATE OF CALIFORNIA; ACQUISITION OF SITES, EASEMENTS, ETC.] (b) All money contributed by the State of California, as herein provided, shall be expended under the direction of the California Débris Commission and in such manner as it may require or approve, and no money appropriated under authority of this section shall be expended in the purchase of or payment for any right-of-way, easement, or land acquired for the purposes of this improvement, but all such rights-of-way, easements, and lands shall be provided free of cost to the United States: *Provided*, That no money paid or expense incurred therefor shall be computed as a part of the contribution of the State of California toward the work of improvement herein provided for within the meaning of paragraph (a) of this section.

[MAINTENANCE OF WORKS FOR FLOOD CONTROL BY STATE OF CALIFORNIA.] (c) Upon the completion of all works for flood control herein authorized the said works shall be turned over to the State of California for maintenance thereafter; but for all other purposes the United States shall retain such control over the same as it may have the right to exercise upon such completion.

(Mar. 1, 1917, ch. 144, §2, 39 Stat. 949; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### TERMINATION OF BOARD OF ENGINEERS FOR RIVERS AND HARBORS AND REASSIGNMENT OF DUTIES AND RESPONSIBILITIES

For termination of Board of Engineers for Rivers and Harbors 180 days after Oct. 31, 1992, and reassignment of duties and responsibilities by Secretary of Army, see section 223 of Pub. L. 102-580, set out as a note under section 541 of this title.

### § 704. Modification of project

The project for the control of floods in the Sacramento River, California, adopted by section 703 of this title, is modified in accordance with the report of the California Débris Commission submitted in Senate Document Numbered 23, Sixty-ninth Congress, first session: *Provided*, That the total amounts contributed by the Federal Government, including the amounts heretofore contributed by it, shall in no event exceed in the aggregate \$17,600,000.

(May 15, 1928, ch. 569, §13, 45 Stat. 539.)

### § 705. Salmon River, Alaska; flood control work authorized

The project of prevention and control of floods in the Salmon River, Alaska, recommended in the report of the Chief of Engineers, United States Army, in House Document Numbered 228, Seventy-second Congress, is adopted and authorized and shall be prosecuted under the direction of the Secretary of the Army and the supervision of the Chief of Engineers in accordance with the plan recommended in such report and subject to the conditions set forth therein.

(June 18, 1934, ch. 581, 48 Stat. 991; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

### § 706. Secretary of Commerce; current precipitation information; appropriation

There is authorized an expenditure as required, from any appropriations heretofore or hereafter made for flood control, rivers and harbors, and related purposes by the United States, for the establishment, operation, and maintenance by the Secretary of Commerce of a network of recording and nonrecording precipitation stations, known as the Hydroclimatic Net-

work, whenever in the opinion of the Chief of Engineers and the Secretary of Commerce such service is advisable in connection with either preliminary examinations and surveys or works of improvement authorized by the law for flood control, rivers and harbors, and related purposes, and the Secretary of the Army upon the recommendation of the Chief of Engineers is authorized to allot the Secretary of Commerce funds for said expenditure.

(June 28, 1938, ch. 795, § 8, 52 Stat. 1226; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Sept. 3, 1954, ch. 1264, title II, § 207, 68 Stat. 1266.)

#### AMENDMENTS

1954—Act Sept. 3, 1954, struck out \$375,000 limitation on transfers to Weather Bureau for providing basic hydrologic and climatic information; inserted references to “rivers and harbors, and related purposes” after “flood control,” in two places; and substituted “network of recording and nonrecording precipitation stations, known as the Hydroclimatic Network” for “current information service on precipitation, flood forecasts, and flood warnings”.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### TRANSFER OF FUNCTIONS

Weather Bureau of Department of Commerce consolidated with Coast and Geodetic Survey to form a new agency in Department of Commerce to be known as Environmental Science Services Administration and office of Chief of Weather Bureau abolished by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. All functions of Bureau and Chief of Bureau transferred to Secretary of Commerce by Reorg. Plan. Subsequently, Environmental Science Services Administration abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, which created National Oceanic and Atmospheric Administration in Department of Commerce. By Department Organization Order 25-5A, republished 39 F.R. 27486, Secretary of Commerce delegated to NOAA his functions relating to Weather Bureau. By order of Acting Associate Administrator of NOAA, organization name of Weather Bureau changed to National Weather Service. For further details, see Codification note set out under section 311 of Title 15, Commerce and Trade.

### § 707. Sumner Dam and Lake Sumner; declaration of purpose; report to Congress; appropriation

The Sumner Dam and Lake Sumner on the Pecos River, New Mexico, is authorized and declared to be for the purposes of controlling floods, regulating the flow of the Pecos River, providing for storage and for delivery of stored waters, for the reclamation of lands, and other beneficial uses, and said dam and reservoir shall be used, first, for irrigation; second, for flood control and river regulation; and third, for other purposes. The Chief of Engineers and the Secretary of the Army are directed to report to the Congress the amount of the total cost of said

Sumner Dam and Lake Sumner which is properly allocable to flood control. The appropriation and transfer of such amount from the general fund of the Treasury to the reclamation fund, for credit by reduction of the maximum obligation of the Carlsbad Irrigation District to repay the total cost thereof, is authorized.

(Aug. 11, 1939, ch. 699, § 7, 53 Stat. 1417; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 93-447, Oct. 17, 1974, 88 Stat. 1363.)

#### AMENDMENTS

1974—Pub. L. 93-447 substituted “Sumner Dam and Lake Sumner” for “Alamogordo Dam and Reservoir” wherever appearing.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### ALAMOGORDO DAM AND RESERVOIR REDESIGNATED AS SUMNER DAM AND LAKE SUMNER

Pub. L. 93-447, Oct. 17, 1974, 88 Stat. 1363, provided: “That the Alamogordo Dam and Reservoir, New Mexico, referred to in the Act of August 11, 1939 (53 Stat. 1414) [which enacted this section], are redesignated as Sumner Dam and Lake Sumner, respectively. Any law, regulation, map, document, record, or other paper of the United States in which such dam or reservoir is referred to shall be held to refer to such dam as Sumner Dam or such reservoir as Lake Sumner.”

### § 708. Sale of surplus waters for domestic and industrial uses; disposition of moneys

The Secretary of the Army is authorized to make contracts with States, municipalities, private concerns, or individuals, at such prices and on such terms as he may deem reasonable, for domestic and industrial uses for surplus water that may be available at any reservoir under the control of the Department of the Army: *Provided*, That no contracts for such water shall adversely affect then existing lawful uses of such water. All moneys received from such contracts shall be deposited in the Treasury of the United States as miscellaneous receipts.

(Dec. 22, 1944, ch. 665, § 6, 58 Stat. 890; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; May 23, 1952, ch. 328, § 1(a), 66 Stat. 93.)

#### AMENDMENTS

1952—Act May 23, 1952, revived and reenacted section.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### REPEALS

Act May 23, 1952, § 1(b), repealed paragraph (59) of section 1 of act Oct. 31, 1951, ch. 654, 65 Stat. 703, which had previously repealed this section.

## TRANSFER OF FUNCTIONS

For transfer of certain personal property and functions relating thereto, insofar as they pertain to Air Force, from Secretary of the Army and Department of the Army to Secretary of the Air Force and Department of the Air Force, see Secretary of Defense Transfer Order No. 39, eff. May 18, 1949, and 40 [App. B (98)], July 22, 1949.

## SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

## CONVERSION OF SURPLUS WATER AGREEMENTS

Pub. L. 114-322, title I, §1174, Dec. 16, 2016, 130 Stat. 1673, provided that: “For the purposes of section 6 of the Act of December 22, 1944 (58 Stat. 890, chapter 665; 33 U.S.C. 708), in any case in which a water supply agreement with a duration of 30 years or longer was predicated on water that was surplus to a purpose and provided for the complete payment of the actual investment costs of storage to be used, and that purpose is no longer authorized as of the date of enactment of this section [Dec. 16, 2016], the Secretary [of the Army] shall provide to the non-Federal entity an opportunity to convert the agreement to a permanent storage agreement in accordance with section 301 of the Water Supply Act of 1958 (43 U.S.C. 390b), with the same payment terms incorporated in the agreement.”

**§ 709. Regulations for use of storage waters; application to Tennessee Valley Authority**

On and after December 22, 1944, it shall be the duty of the Secretary of the Army to prescribe regulations for the use of storage allocated for flood control or navigation at all reservoirs constructed wholly or in part with Federal funds provided on the basis of such purposes, and the operation of any such project shall be in accordance with such regulations: *Provided*, That this section shall not apply to the Tennessee Valley Authority, except that in case of danger from floods on the Lower Ohio and Mississippi Rivers the Tennessee Valley Authority is directed to regulate the release of water from the Tennessee River into the Ohio River in accordance with such instructions as may be issued by the Department of the Army.

(Dec. 22, 1944, ch. 665, §7, 58 Stat. 890; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

## CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

## SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

**§ 709a. Information on floods and flood damage**

**(a) Compilation and dissemination**

In recognition of the increasing use and development of the flood plains of the rivers of the United States and of the need for information on

flood hazards to serve as a guide to such development, and as a basis for avoiding future flood hazards by regulation of use by States and political subdivisions thereof, and to assure that Federal departments and agencies may take proper cognizance of flood hazards, the Secretary of the Army, through the Chief of Engineers, is hereby authorized to compile and disseminate information on floods and flood damages, including identification of areas subject to inundation by floods of various magnitudes and frequencies, and general criteria for guidance of Federal and non-Federal interests and agencies in the use of flood plain areas; and to provide advice to other Federal agencies and local interests for their use in planning to ameliorate the flood hazard. Surveys and guides will be made for States and political subdivisions thereof only upon the request of a State or a political subdivision thereof, and upon approval by the Chief of Engineers, and such information and advice provided them only upon such request and approval.

**(b) Flood prevention coordination**

The Secretary shall coordinate with the Administrator of the Federal Emergency Management Agency and the heads of other Federal agencies to ensure that flood control projects and plans are complementary and integrated to the extent practicable and appropriate.

**(c) Fees**

The Secretary of the Army is authorized to establish and collect fees from Federal agencies and private persons for the purpose of recovering the cost of providing services pursuant to this section. Funds collected pursuant to this section shall be deposited into the account of the Treasury of the United States entitled “Contributions and Advances, Rivers and Harbor, Corps of Engineers (8862)” and shall be available until expended to carry out this section. No fees shall be collected from State, regional, or local governments or other non-Federal public agencies for services provided pursuant to this section, but the Secretary of the Army may accept funds voluntarily contributed by such entities for the purpose of expanding the scope of the services requested by the entities.

**(d) Fiscal year limitation on expenditures**

The Secretary of the Army is authorized to expend not to exceed \$50,000,000 per fiscal year for the compilation and dissemination of information under this section.

(Pub. L. 86-645, title II, §206, July 14, 1960, 74 Stat. 500; Pub. L. 89-298, title II, §220, Oct. 27, 1965, 79 Stat. 1089; Pub. L. 89-789, title II, §206, Nov. 7, 1966, 80 Stat. 1422; Pub. L. 91-611, title II, §225, Dec. 31, 1970, 84 Stat. 1832; Pub. L. 93-251, title I, §64, Mar. 7, 1974, 88 Stat. 30; Pub. L. 101-640, title III, §321, Nov. 28, 1990, 104 Stat. 4643; Pub. L. 106-53, title II, §§202, 216, Aug. 17, 1999, 113 Stat. 285, 293; Pub. L. 109-295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410; Pub. L. 113-121, title I, §1030(h), June 10, 2014, 128 Stat. 1232.)

## AMENDMENTS

2014—Subsec. (d). Pub. L. 113-121 substituted “\$50,000,000” for “\$15,000,000”.



1999—Subsec. (b). Pub. L. 106-53, §216, added subsec. (b). Former subsec. (b) redesignated (c).

Pub. L. 106-53, §202, inserted before period at end of third sentence “, but the Secretary of the Army may accept funds voluntarily contributed by such entities for the purpose of expanding the scope of the services requested by the entities”.

Subsecs. (c), (d). Pub. L. 106-53, §216(1), redesignated subsecs. (b) and (c) as (c) and (d), respectively.

1990—Pub. L. 101-640 added subsec. (b) and redesignated former subsec. (b) as (c).

1974—Subsec. (b). Pub. L. 93-251 substituted “\$15,000,000” for “\$11,000,000”.

1970—Subsec. (b). Pub. L. 91-611 substituted “\$11,000,000” for “\$7,000,000”.

1966—Subsec. (a). Pub. L. 89-789, in amending subsec. (a) generally, substituted “political subdivisions thereof” for “municipalities” and “advice” for “engineering advice”, inserted provision “to assure that Federal departments and agencies may take proper cognizance of flood hazards”, provided for guidance of Federal and non-Federal interests and agencies and advice to other Federal agencies, and for surveys and guides upon request of a State or political subdivision in lieu of surveys and studies for specific localities upon request of a State or responsible local governmental agency.

Subsec. (b). Pub. L. 89-789 substituted “expend not to exceed \$7,000,000 per fiscal year for the compilation and dissemination of information under this section” for “allot, from any appropriations hereafter made for flood control, sums not to exceed \$2,500,000 in any one fiscal year for the compilation and dissemination of such information”.

1965—Subsec. (b). Pub. L. 89-298 substituted “\$2,500,000” for “\$1,000,000”.

#### CHANGE OF NAME

“Administrator of the Federal Emergency Management Agency” substituted for “Director of the Federal Emergency Management Agency” in subsec. (b) on authority of section 612(c) of Pub. L. 109-295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109-295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109-295, set out as a note under section 313 of Title 6.

### § 709b. Flood hazard information

The Secretary, the Administrator of the Federal Emergency Management Agency, and the Administrator of the Soil Conservation Service shall take necessary actions, including the posting and distribution of information and the preparation and distribution of educational materials and programs, to ensure that information relating to flood hazard areas is generally available to the public.

(Pub. L. 99-662, title IX, §944, Nov. 17, 1986, 100 Stat. 4200; Pub. L. 109-295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410.)

#### CHANGE OF NAME

“Administrator of the Federal Emergency Management Agency” substituted for “Director of the Federal Emergency Management Agency” in text on authority of section 612(c) of Pub. L. 109-295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109-295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109-295, set out as a note under section 313 of Title 6.

#### “SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2201 of this title.

### § 709c. Emergency communication of risk

#### (a) Definitions

In this section:

##### (1) Affected government

The term “affected government” means a State, local, or tribal government with jurisdiction over an area that will be affected by a flood.

##### (2) Annual operating plan

The term “annual operating plan” means a plan prepared by the Secretary that describes potential water condition scenarios for a river basin for a year.

#### (b) Communication

In any river basin where the Secretary carries out flood risk management activities subject to an annual operating plan, the Secretary shall establish procedures for providing the public and affected governments, including Indian tribes, in the river basin with—

- (1) timely information regarding expected water levels;
- (2) advice regarding appropriate preparedness actions;
- (3) technical assistance; and
- (4) any other information or assistance determined appropriate by the Secretary.

#### (c) Public availability of information

To the maximum extent practicable, the Secretary, in coordination with the Administrator of the Federal Emergency Management Agency, shall make the information required under subsection (b) available to the public through widely used and readily available means, including on the Internet.

#### (d) Procedures

The Secretary shall use the procedures established under subsection (b) only when precipitation or runoff exceeds those calculations considered as the lowest risk to life and property contemplated by the annual operating plan.

(Pub. L. 113-121, title III, §3027, June 10, 2014, 128 Stat. 1305.)

#### “SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113-121, set out as a note under section 2201 of this title.

## CHAPTER 16—LIGHTHOUSES

Sec.

711 to 716. Omitted or Repealed.

717. Detail of Army engineers as construction aids.

717a to 724. Repealed or Omitted.

725. Prohibition against officers and employees being interested in contracts for materials, etc.

726. Repealed.

727. Lighthouse and other sites; necessity for cession by State of jurisdiction.

728. Sufficiency of cession by State; service of State process in lands ceded.

729, 730. Repealed.